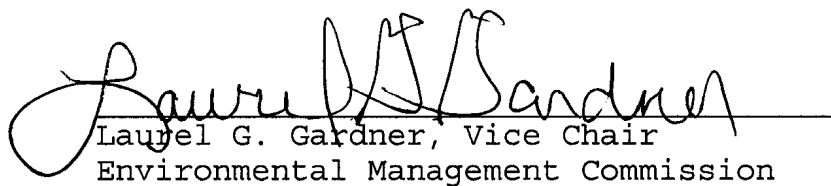


6/30/08

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
April 18, 2008**

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on April 18, 2008.


Laurel G. Gardner, Vice Chair
Environmental Management Commission

Certified this 27th day of June 2008.

Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
April 18, 2008

Convened: 11:00 a.m.
Adjourned: 12:07 p.m.

Part A

Transcript

Part B

Attachment Index

Attachment 1

Attachment 2

Attachment 3

Attachment 4

Attachment 5

Attachment 6

Part A

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
MEETING

Alabama Department of Environmental Management
Building
Alabama Room (Main Hearing Room)
1400 Coliseum Boulevard
Montgomery, Alabama

April 18, 2008

11:00 a.m.

Page 2	Page 4
<p>1 COMMISSION MEMBERS PRESENT: 2 W. SCOTT PHILLIPS, CHAIR 3 DR. LAUREL G. GARDNER, VICE-CHAIR 4 SAM H. WAINWRIGHT, P.E. 5 ANITA L. ARCHIE 6 DR. KATHLEEN J. FELKER 7 8 COMMISSION MEMBERS NOT PRESENT: 9 KENNETH A. HAIRSTON, ESQUIRE 10 DR. JOHN H. LESTER 11 12 ALSO PRESENT 13 ONIS "TREY" GLENN, III, ADEM DIRECTOR 14 ROBERT TAMBLING, ADEM LEGAL COUNSEL 15 DEBI THOMAS, EMC EXECUTIVE ASSISTANT 16 17 18 19 20 21 22 23</p>	<p>1 his report. 2 MR. GLENN: Thank you. Good 3 morning, Chairman Phillips; good morning, 4 Commissioners. Once again, I appreciate 5 the opportunity to stand before you 6 today. 7 Jumping quickly into 8 administrative issues, you should have 9 received a memo from me, as usual, but 10 this time stating that the Department 11 does not anticipate any additional 12 rulemaking occurring between now -- 13 initiating between now and the next 14 scheduled Commission meeting. 15 You should have also 16 received a memo outlining 17 recently-executed contracts that we 18 entered into. And the other issue is 19 budget. Once again, we're on track this 20 fiscal year with our expenditures and our 21 revenues as we projected them. Our plans 22 that we've been discussing for almost a 23 year now that we have in place have been</p>
Page 3	Page 5
<p>1 MR. PHILLIPS: Call the 2 meeting of the Environmental Management 3 Commission to order. I'll acknowledge 4 that we have a quorum this morning. 5 Agenda Item No. 1 will be the 6 consideration of minutes of the meeting 7 held on March 20th, 2008. I'll entertain 8 a motion from the Commission. 9 MS. ARCHIE: So move. 10 MR. PHILLIPS: I have a 11 motion. Do I have a second? 12 DR. GARDNER: Second. 13 MR. PHILLIPS: I have a 14 motion to second. Is there any 15 discussion? There being no discussion, 16 all in favor of the motion, signify with 17 the sign "aye." 18 ALL: Aye. 19 MR. PHILLIPS: All opposed, 20 same sign. (No response.) Motion 21 carries. Thank you. 22 Moving to Agenda Item No. 2, 23 we'll ask the Director to come give us</p>	<p>1 effective, and I feel that our current 2 budget year and both revenues and 3 expenditures are in good shape and are 4 proceeding as planned. 5 On the last administrative 6 issue, I've had the opportunity to meet 7 or speak with each of you recently 8 regarding my evaluation; and once again, 9 thank you very much for that evaluation 10 of my performance, and I appreciate your 11 continued support and engagement in the 12 relationship. 13 As discussed individually, I 14 have identified the focus areas where my 15 attention will be placed during the 16 upcoming evaluation period. The focus 17 areas include a range of items including 18 the continuation of some existing 19 activities as well as the expansion of 20 others. 21 In general, the items 22 included in my draft are the execution of 23 priority goals; two, leadership and</p>

2 (Pages 2 to 5)

Page 6	Page 8
<p>1 personal development; three, compliance 2 assistance and environmental justice; No. 3 4, Enforcement; No. 5, internal 4 communications; No. 6, strategic planning 5 and commission policy, and lastly, No. 7, 6 commission level communications.</p> <p>7 As instructed, I plan to get 8 with Chairman Phillips and the Chair of 9 the Personnel Committee, Dr. Lester, in 10 the coming weeks to finalize this list 11 for distribution. You know, again, this 12 process, if I understand correctly, the 13 first ever formal evaluation of an ADEM 14 director. It's been a pleasure, and I'm 15 excited about the opportunities and I'm 16 excited about what the future holds for 17 us. So thank you for that.</p> <p>18 Now on to legislative 19 issues. As you know, the legislative 20 session continues, and I want to update 21 you on the two main items that we've been 22 tracking. First are the general fund 23 budgets. The budget that's passed in the</p>	<p>1 and Recycling Bill. It's called for in 2 the current Solid Waste Management Plan 3 and the Commission's Strategic Plan. I 4 am very pleased to announce that the 5 bills passed both houses and was signed 6 into law by the governor.</p> <p>7 The success of this bill, to 8 be quite candid with you, is a direct 9 result of the foresight and planning of 10 you, the Environmental Management 11 Commission, in my strong opinion. Your 12 2004 Strategic Plan called for two very 13 specific things. No. 1, passage of the 14 bill, and No. 2, a refocusing of our 15 resources and efforts leading the 16 expansion of efforts on external 17 relations, specifically looking at 18 executive branch and legislative 19 relations.</p> <p>20 So this vision that you laid 21 out in 2004, acted upon by my staff, 22 resulted in the passage of of the bill. 23 And we appreciate your leadership; we</p>
Page 7	Page 9
<p>1 House includes substantial cuts to the 2 Agency. It proposes to return us to 3 pre-2007 levels.</p> <p>4 We're currently focused on 5 our discussions with senators and with 6 members of the Senate. As you have 7 heard, this will be a very difficult year 8 for the general fund budget. I see 9 Commissioner Archie nodding her head. 10 It's a reality. It's clear from the 11 information available that the budget 12 passed in the House and all the 13 information coming out, you're going to 14 see substantial cuts to most if not all 15 state agencies. This is due to many 16 issues, the least of which is the \$62 17 million that recently got pulled out of 18 play based on some court decisions.</p> <p>19 But we can't end on that 20 note. On to some very good news. I 21 think all of you are well aware that the 22 other legislative issue we've been 23 tracking is the Department's Solid Waste</p>	<p>1 appreciate the governor and his 2 involvement as well as the House and the 3 Senate for what they've done.</p> <p>4 I'd also like to recognize, 5 take a moment, recognize a couple of the 6 staff individuals: Phil Davis, Freida 7 Thomas, Curt Davis, and Stacey Little for 8 all their hard work. I was around when 9 they got called about one minute to five 10 several days and worked to get something 11 done the next day. These issues are not 12 their day job here, but you never would 13 have known it, based on the results of 14 what they did here internally.</p> <p>15 Also, if you'll indulge me 16 for just a second, we have an extremely 17 important presentation that Mr. Hagood 18 needs to make. So if it pleases the 19 Commission.</p> <p>20 MR. HAGOOD: Thank you, Mr. 21 Director, and thank you for your 22 indulgence, Commissioners. There's a 23 person in this department, an employee,</p>

3 (Pages 6 to 9)

1 who has doggedly pursued every piece of
2 solid waste legislation for the last 20
3 years that this Department has been
4 involved in, starting with the overhaul
5 of the Solid Waste Act itself in 1989,
6 and once that passed, starting to try to
7 pass the bill that ultimately passed this
8 session.

9 It's been introduced at
10 least 10 times. This is the year that it
11 passed. And this employee had a cigar in
12 1992, is the first date I see on it. He
13 has a date for every year that the bill
14 was passed -- was introduced, and he
15 swore he would smoke it when he passed
16 the bill.

17 In the interest of his
18 safety, because I think this thing would
19 go off like a firecracker, I'd like for
20 Russell Kelly to come up and accept this
21 nice hand-rolled Churchill.

22 (Applause.)

23 MR. KELLEY: I just want to

1 Mitchell, Waggoner, Holley, Marsh, Penn,
2 and Singleton.

3 I don't think we could have
4 done it without their support, and even
5 though they're not here to receive our
6 thanks, if any of you know them or see
7 them or run into any of them, shake their
8 hands and tell them thank you, because
9 this will be very good for the Department
10 and the State of Alabama for years to
11 come.

12 MR. GLENN: Thank you. And
13 one --

14 MS. ARCHIE: If I may, Mr.
15 Chair. And also, much thanks to Frank
16 McDaniel, who was the sponsor of the
17 bill. Frank worked tirelessly hard on
18 it. And I had the pleasure to see John
19 and Russell in action. I mean, they
20 worked it. I mean, I saw them over there
21 every day.

22 Everybody thought I was over
23 there on the bill. I said, No, I'm over

1 say, Mr. Hagood did a tremendous amount
2 of work this year. I probably did the
3 least I've ever done and it passed so
4 maybe that's telling us something.

5 MR. GLENN: We figured his
6 secret out. Yes, ma'am?

7 DR. FELKER: Director,
8 there's a few people that I would like to
9 recognize for this bill, and
10 congratulations, you've done good work
11 here. John Hagood, I'd like to recognize
12 you. You've also recognized Russell
13 Kelly. But there are Representatives and
14 Senators who are also of great help to us
15 too. And I'm sorry the list is long, but
16 I'm going to name them all.

17 In the House, I'd like to
18 recognize Beasley, Boothe, Guin, Hammett,
19 Hubbard, Knight, Hall, Page, Rogers, and
20 Sanderford. All these representatives
21 were very helpful to us in passing it in
22 the House. And in the Senate, Barron,
23 Bedford, French, Griffith, Lindsey,

1 here for my regular job. That's what
2 they're hired to do, and they did a
3 fabulous job. Members came to me and
4 thanked me. It was their effort and the
5 staff here at the Department that got
6 that bill passed.

7 And so -- and they actually
8 pulled off a major coupe, because the
9 Senate's on a lockdown over Macon County
10 bingo bill, and they were able to get
11 that bill bumped and get it passed. And
12 that's something major that I want to
13 recognize them for.

14 MR. GLENN: Thank you.
15 (Applause.)

16 MR. PHILLIPS: Could someone
17 take this before it turns to ashes?

18 MR. GLENN: At least it's in
19 a protective covering.

20 MR. PHILLIPS: I would also
21 say that as a Commission, we will send
22 our thanks as a full Commission to all of
23 these people, so thank you for providing

1 the list of who did this.

2 MR. GLENN: Absolutely.

3 Last item I'd like to just update you on
4 very quickly is the
5 reorganization/refocusing efforts. As we
6 discussed in fairly good detail at the
7 last meeting, as I've had a chance to
8 talk with each of you individually about,
9 you know, many of our programs that
10 manage the discharge of waters in the
11 State of Alabama have been spread over at
12 least two divisions directly here.

13 And we have begun or are in
14 the middle of our refocusing process to
15 more effectively and efficiently
16 accomplish this mission with respect to
17 these specific programs. To date, all
18 managers and staff have been assigned to
19 their new duties that they will fulfill
20 in this organization.

21 There are a few logistical
22 markers left to be accomplished, things
23 such as reassignment of physical work

1 space and those types of items, but
2 transition is ongoing right now. But it
3 now allows us to turn our attention very
4 actively to enhancing the systems. And
5 "systems" means tools, processes,
6 everything that goes in to support the
7 decision making within our water program.
8 Take full advantage of this new
9 organization and new focus that we have.

10 We've begun internally
11 meeting with all layers of management
12 throughout the Department, not just in
13 the Water Group, to take advantage of the
14 vast expertise that exists in all of our
15 programs, and we plan -- as we plan and
16 execute the changes that will have the
17 most positive impact in this
18 reorganization here.

19 So with that, that concludes
20 my remarks. Before we move to the next
21 agenda item though, after I take
22 questions, I would appreciate your
23 indulgence for the distribution of one

1 award.

2 MR. PHILLIPS: Do we have
3 any questions from the Commission? Ms.
4 Archie?

5 MS. ARCHIE: Quickly, I want
6 to just kind of touch on those
7 resolutions that are going through the
8 State House right now that deal with this
9 issue. Are we somewhere involved in
10 those SGRs and HGRs dealing with water
11 issues here in the state?

12 MR. GLENN: Oh, that's
13 focused on water resources, the water
14 resources resolution? Yes. No.
15 That's -- my understanding of those is
16 it's much more focused on water policy
17 issues such as transfers and water usage,
18 which do fall outside the jurisdiction of
19 ADEM regulatory control.

20 MS. ARCHIE: Just wanted to
21 make sure.

22 MR. GLENN: Thank you.
23 Water's a very important issue.

1 MR. PHILLIPS: Good
2 question. Any other questions from the
3 Commissioners? (No response.) Okay.
4 Thank you. Would you like to make the
5 award?

6 MR. GLENN: I would.
7 Chairman Phillips, would you come join me
8 on this? Today, Commissioners, we
9 welcome representatives from the
10 Birmingham Water Works Board to receive a
11 recognition for their attainment of the
12 U.S. EPA Region 4 Safe Drinking Water Act
13 Excellence Award. It will be presented
14 during a reception next week, and it's
15 offered annually by Region 4 to public
16 systems which excel in operation and
17 maintenance of a facility.

18 It's my pleasure to welcome
19 Joel Rhaly and his assistant, Jarred
20 Shotts, up to receive this award, if
21 they're here.

22 (Applause.)

23 MR. GLENN: That concludes

1 my report.

2 MR. PHILLIPS: Thank you
3 very much. Moving to Agenda Item No. 3,
4 report from the Commission Chair. The
5 only issue that I would like to bring
6 forward is, as we went through
7 discussions with the Director on his
8 performance review, many issues came up
9 around boundary conditions of
10 communications and policy and things like
11 that.

12 And one of the things that I
13 would like to propose to the Commission
14 is to look at the Commission's
15 performance in those regards and to make
16 sure that we're doing it consistently
17 with what we're asking the Director to
18 do. So I'm going to ask and work with
19 the Rules Committee to do those things in
20 the upcoming months and hopefully be
21 prepared to bring something back to the
22 Commission in the next month.

23 The only other item that I

1 equivalency, ADEM must annually revise
2 its regulations. The revisions to
3 Division 14 of the ADEM Administrative
4 Code, which are before you for
5 consideration, would incorporate
6 hazardous waste regulations promulgated
7 by EPA from July the 15th, 2006, through
8 June the 30th, 2007.

9 In this rulemaking, the
10 Department is proposing to do the
11 following: To reformat the definitions
12 to better serve the reader; to add
13 language to clarify certain regulations
14 to the existing rules; to add
15 requirements for generators to document
16 the amount of hazardous waste generated
17 each month; to add requirements for
18 generators to maintain a written waste
19 minimization plan; to add a requirement
20 for generators to notify the Department
21 as part of the exception report; and
22 proposing several other minor revisions
23 to update or clarify existing

1 have is, I just need you to know that if
2 I have to leave the meeting quickly
3 today, it's because I have a personal
4 issue. But I won't do that unless I have
5 to do it. But in case you do see me hand
6 it to the Vice Chair and get up, that's
7 what it's about. Any questions? (No
8 response.) Thank you.

9 Agenda Item No. 4,
10 consideration of adoption of proposed
11 amendments to Division 14, the Hazardous
12 Waste Regulations. We'll hear from the
13 Department.

14 MR. GERALD HARDY: Good
15 morning, Mr. Chairman, members of the
16 Commission. I am Gerald Hardy, and I am
17 Chief of the Land Division. The
18 Department is required to ensure that its
19 Hazardous Waste Regulations remain
20 equivalent to the U.S. Environmental
21 Protection Agency's regulations in order
22 to retain its authorization from EPA.

23 To maintain this

1 requirements and to correct any
2 typographical or formatting errors.

3 Public notice of the
4 proposed changes to the Hazardous Waste
5 Regulations began on December the 23rd,
6 2007, and a public hearing was held on
7 February the 6th, 2008. No oral comments
8 were received at the public hearing.
9 Four written comments were received
10 during the comment period that ended on
11 February the 7th, 2008.

12 Three comments questioned a
13 clarification added to the Universal
14 Waste Regulations concerning fluorescent
15 lamps and other lamps. A fourth comment
16 was received concerning the addition of
17 reactive waste to the list of wastes that
18 must be at least 50 feet from a transfer
19 facility's property line.

20 The comments were reviewed
21 by the Department, and responses stating
22 the Department's position regarding the
23 changes in question were sent to the

commenters. As a result of the comments received, the Department is proposing to amend the requirement that reactive waste must be at least 50 feet from a transfer facility's property line by exempting transfer facilities in operation prior to March the 31st, 2005, from the 50-foot requirement.

On March the 19th, 2008, the State Committee of Public Health concurred with the Department's recommendation to adopt these rules as proposed. At this time, the Department requests the Commission adopt these rules as recommended, and I'll be glad to answer any questions you may have.

MR. PHILLIPS: Thank you. Do I have any questions from the Commission? (No response.) Okay. No questions. Do I have a motion from the Commission to adopt these proposed rules -- proposed amendments?

DR. GARDNER: So move.

MR. WAINWRIGHT: Second.

MR. PHILLIPS: A motion and a second. Any further discussion? (No response.) No further discussion. All in favor of accepting the proposed amendments, signify with the sign "aye."

ALL: Aye.

MR. PHILLIPS: All opposed, same sign. (No response.) Motion carries. Thank you.

Thank you. Moving on to Agenda Item 5. This will be the consideration of the adoption of proposed amendments to Division 6 - Water Quality Criteria and Water Use Classification Regulations. I'll note that we'll hear from the Department.

MR. LYNN SISK: Good morning, Chairman Phillips and members of the Commission. My name is Lynn Sisk, and I'm Chief of the Water Quality Branch in the Water Division.

The Department held a public

hearing on March 19th, 2008, to receive public comments concerning proposed amendments to Alabama Water Quality Standards, specifically, the rules within Chapters 335-6-10 and 11.

During the comment period, the Department received 129 written comments. At the hearing on March 19th, 2008, one individual presented oral testimony. All comments received during the comment period are addressed in the reconciliation statement as is included in the Hearing Record and Related Documents provided to you earlier.

In Chapter 335-6-10, the proposed changes to Rule 335-6-10-.07, Toxic Pollutant Criteria Applicable to State Waters, include a change in the equations used to calculate human health and water quality criteria for non-carcinogenic pollutants listed in Table 1 of the Rule.

Specifically, Equations 16

and 17 have been modified to include a relative source contribution factor to recognize the exposure to certain pollutants may come from sources other than water and fish consumption.

As a part of this proposed change, the relative source contribution factors have been included in Appendix A of the rule. This change will affect human health criteria for 14 non-carcinogenic pollutants.

An additional proposed change to Rule 335-6-10-.07 involves a change in the cancer risk level used in the equations to calculate human health water quality criteria for the carcinogens listed in Table 1 of the rule, with the exception of arsenic, from one times ten to the minus five, to one times ten to the minus six.

The proposed changes to Chapter 335-6-11 involve Rule 335-6-11-.01, the Use Classification

1 System, and include revision and addition
2 of language to clarify the Department's
3 process for reviewing and proposing
4 changes to assign use classifications for
5 any usage which has an associated degree
6 of quality considered to be less than
7 that applicable to the classification of
8 fish and wildlife.

9 The Department asks that you
10 adopt the proposed changes, and I'll be
11 happy to answer any questions you may
12 have.

13 MR. PHILLIPS: Thank you
14 very much. I'll entertain a motion from
15 the Commission for the adoption of the
16 proposed amendments.

17 DR. FELKER: So move.

18 MR. PHILLIPS: I have a
19 motion. Do I have a second?

20 COMMISSIONER: (Non-verbal
21 response.)

22 MR. PHILLIPS: And a second.
23 I'll open it up for discussion. Any

1 discussion? Commissioner Wainwright?

2 MR. WAINWRIGHT: Mr.
3 Chairman, in reading the Hearing Record,
4 on Page 55 of that record, which was
5 5,800 pages, Mr. Ludder submitted a
6 request to clarify the exemption of
7 arsenic from the rule change, and he
8 asked if any scientific justification had
9 been offered. I'd like to see
10 what -- what has happened with his
11 request, and was any answer given to
12 this -- this request?

13 MR. LYNN SISK: No, sir. I
14 think the response to that was simply
15 that that had been the wish of the
16 Commission at the time they directed us
17 to proceed with the rulemaking, that
18 arsenic be exempted from that rule
19 change. I believe the Hearing Record
20 reflects that the state is already more
21 stringent than most surrounding states
22 regarding arsenic, and that was -- that
23 was, I believe, the justification at the

1 time.

2 MR. WAINWRIGHT: I share Mr.
3 Ludder's concern in this case, and I feel
4 that in order that we avoid any
5 litigation concerning this matter that
6 this -- that we put this particular part
7 of our rule change, put this off until
8 this issue can be resolved. And I would
9 speak against this motion for that
10 reason.

11 MR. PHILLIPS: Thank you,
12 Commissioner Wainwright. Any other
13 Commissioners? Commissioner Felker?

14 DR. FELKER: Right. Mr.
15 Wainwright, I'm not sure what you're
16 asking us to do.

17 MR. WAINWRIGHT: I'm asking
18 you to vote no.

19 DR. FELKER: Okay. That's
20 what I thought you were asking. When I
21 went through the discussion, I had some
22 references from EPA that they had worked
23 with other states in arsenic, if you can

1 hear me, in allowing different levels.

2 And that was the basis of
3 the exclusion, because we're already
4 significantly more stringent than most of
5 the other Region 4 states. And we
6 felt -- I felt that it was not prudent at
7 that time to make those industries go any
8 further when EPA wasn't requiring the
9 other states to do it. That was the
10 rationale. I don't think this should be
11 held up.

12 I'm not sure what sort of
13 litigation you're referring to. I've not
14 heard about this litigation as a result
15 of this. So if you have any information
16 there, you could share it. But I suggest
17 we go ahead with the vote with the
18 Commissioners that we have here today.

19 MR. PHILLIPS: Any other
20 Commission comments? Mr. Wainwright?

21 MR. WAINWRIGHT: My response
22 to that is that it appears from the way
23 this was presented that it was an

Page 30	Page 32
<p>1 arbitrary decision, and I think Mr. 2 Ludder was asking for any scientific 3 justification for it. And it opens us 4 up, I think -- my feeling is, it opens us 5 up to litigation if we -- if we have just 6 done this in an arbitrary manner. It 7 appears that we have, so I would speak 8 against this motion. 9 MR. PHILLIPS: Okay. Thank 10 you. Any other Commission comments or 11 questions? 12 DR. FELKER: Yes. I don't 13 believe it was arbitrary. I believe 14 there was instruction from an EPA member 15 that was on the committee put together. 16 And I would like to ask if anybody knows 17 of any litigation against any of the 18 Region 4 states as a result of their 19 changes for arsenic, if they have any of 20 that information now, bring it forward. 21 MR. PHILLIPS: Okay. Are we 22 done, back and forth? 23 DR. FELKER: Yes.</p>	<p>1 morning. My name is Glenda Dean. I'm 2 Chief of the NPDES Permit Branch in the 3 Water Division. 4 The Alabama Department of 5 Environmental Management initiated a 6 rulemaking process to consider proposed 7 amendments to ADEM Administrative Rule 8 335-6-6 pertaining to definitions, 9 establishment of limitations, standards, 10 and other permit conditions and schedules 11 of compliance. 12 The proposed revisions to 13 Rule 335-6-6 would add new definitions, 14 recognize total maximum daily loads, 15 established pursuant to the Federal Water 16 Pollution Control Act, and clarify 17 conditions for which timelines for 18 compliance may be allowed. Specifically, 19 the proposed revisions serve to provide 20 permit schedules of compliance in the 21 event of adoption of a new water quality 22 standard or establishment of a total 23 maximum daily load.</p>
Page 31	Page 33
<p>1 MR. PHILLIPS: Any other 2 questions or comments from the 3 Commission? (No response.) No 4 additional comments. All in favor of the 5 motion to accept the adoption of the 6 proposed amendments, signify with the 7 sign "aye" and your right hand. 8 MS. ARCHIE: Aye. 9 DR. FELKER: Aye. 10 DR. GARDNER: Aye. 11 MR. PHILLIPS: All opposed, 12 same sign. 13 MR. WAINWRIGHT: Aye. 14 MR. PHILLIPS: Motion 15 carries. 16 Moving on to Agenda Item No. 17 6. I know the Commission will consider 18 the adoption of proposed amendments to 19 Division 6 - the National Pollutant 20 Discharge Elimination System Regulations. 21 We'll hear from the Department. 22 MS. GLENDA DEAN: Mr. 23 Chairman, members of the Commission, good</p>	<p>1 On March 6th in 19 -- 2008, 2 public hearings were held to receive 3 data, views, and comments from interested 4 persons regarding the proposed revisions. 5 Written comments were accepted anytime 6 during the public comment period, which 7 extended from January 21st through March 8 19th, 2008. 9 During the comment period, 10 the Department received five written 11 comments. At the hearing on March 6th, 12 2008, no individuals presented oral 13 testimony. At the hearing on March 19th, 14 2008, no individuals presented oral 15 testimony. 16 Comments relevant to the 17 rulemaking were proposed -- I'm sorry. 18 Comments related to the rulemaking 19 proposal were summarized by the 20 Department and were addressed in the 21 Reconciliation Statement that is included 22 in the Hearing Record and Related 23 Documents provided to you earlier.</p>

9 (Pages 30 to 33)

As noted in the Reconciliation Statement, the Department received a comment from EPA Region 4 requesting a clarification regarding Rule 335-6-6-.16, Schedules of Compliance. The Department concurs with EPA that the language as written could be misinterpreted; therefore, the Department proposes to amend this rule for clarity.

The Department proposes that the Commission adopt the proposed revisions with changes pursuant to comment. I'll be happy to answer any questions that you might have.

MR. PHILLIPS: Thank you very much. Do we have a motion to accept the proposed amendments?

MR. WAINWRIGHT: So move.

MR. PHILLIPS: Do I have a second?

MS. ARCHIE: Second.

MR. PHILLIPS: Okay. I'll open up the discussion. Do we have any

DR. GARDNER: I just have a request of the Department: If we pass this, that you would contact the office of U.S. EPA. There was -- again, within the Hearing Record, there was some documentation that they had sent to Region 9 regarding step by step what constitutes a compliance schedule and when you can use it. I think there were nine or ten.

And I would just ask you to contact them for Region 4 and just clarify what they request of us. Okay.

MR. PHILLIPS: All right. Do we have any other questions, comments from the Commission? (No response.) Okay. We'll move to question. All in favor of the motion to adopt the proposed amendments to Division 6, signify with the sign "aye" and your right hand.

ALL: Aye.

MR. PHILLIPS: All opposed, same sign. (No response.) Motion

discussions or questions or comments?

DR. GARDNER: I have a couple of questions, Mr. Chairman.

MR. PHILLIPS: Commissioner Gardner?

DR. GARDNER: Thank you. There is a statement in the hearing documents where you're replacing the word "and" with "or," and you combine No. 2 and No. 3 with that. The question arose whether the Department was acknowledging that they are authorizing compliance schedules, and I guess my question is, by doing so, are you acknowledging that you are authorizing compliance schedules?

MS. GLENDA DEAN: Yes. That's the -- that's the intent of the rule, is to authorize compliance schedules. That amendment was intended to clarify that we would have on TMDL schedules, some of those would extend beyond the three years, which for water quality standards, it's three years.

carries. Thank you.

Okay. Moving on to Agenda Item No. 7. This item was tabled at our March 20th meeting, and since that meeting, the Commission received a letter concerning EPA's proposed updating of the recommended Clean Water Act, Section 304(a), water quality criteria for acrolein and phenol with the latest Integrated Risk Information System values.

The Commission will discuss and consider said letter under this agenda item and call on the Department for comments. We'll start with the Department for their comments on the issue of reference doses and presentation of information from EPA.

MR. GLENN: Thank you, Chairman Phillips. I think you stated it properly. This issue's been discussed for some time now. EPA did recently send a correspondence to us noting that they

1 were going to be re-looking at the
2 National Recommended Water Quality
3 Criteria document for acrolein and phenol
4 and will be paying special attention to
5 the IRIS documentation of what it calls
6 for.

7 So I believe there was also
8 a request by EPA for a y'all to take
9 specific action or not take specific
10 action on that, asking you to either
11 consider that -- their actions prior to
12 you making a decision or not. That's, of
13 course, for y'all's decision. But that's
14 effectively what's happening on there.

15 We do anticipate the
16 criteria document to be updated or -- and
17 I would assume that document, when
18 updated, would include the values that
19 are currently in the IRIS documentation,
20 but, however, that's the process they're
21 going through to make that decision on
22 what to do there.

23 With that said, I know my

1 MR. GLENN: Depends on our
2 timetable. Would it be four months?
3 Roughly? Four to six months, depending
4 on how the time frames fall. As a point
5 of reference, y'all acted -- I think it
6 was in the December meeting, you made a
7 policy decision regarding ten to the
8 minus six, and that came before you
9 today.

10 So that was -- we had the
11 good fortune of dates falling on certain
12 days of the week and the Commission
13 meeting at a time that was conducive to
14 that. And so that would probably be
15 about the fastest we could do that.

16 DR. GARDNER: The reason I'm
17 asking, if I remember that letter
18 correctly, they stated that they will be
19 making that change officially at some
20 point during the summer. So if we chose
21 to do that today, our final approval
22 would come probably beyond when they made
23 that change this summer?

1 deputy director, Marilyn Elliott, has had
2 many conversations with the individuals,
3 James McIndoe. And so we've had a lot of
4 conversations with them, but I think I
5 boiled it down to the key facts there.

6 MR. PHILLIPS: All right.
7 I'm going to open it up to the Commission
8 just to discuss the issue and to ask any
9 questions of the Department that you may
10 have.

11 DR. GARDNER: Mr. Glenn, I
12 had a question.

13 MR. PHILLIPS: Commissioner
14 Gardner.

15 DR. GARDNER: Thank you.
16 Should we act on the petition that was
17 originally brought back in June of '07
18 before us, if we decide today that we
19 want to move ahead and go ahead and have
20 the Department update those numbers, what
21 is the time frame as to when that
22 rulemaking would be brought back to us
23 for final approval approximately?

1 MR. GLENN: That's correct.
2 Depends on the time frame. But if y'all
3 made a policy decision today that
4 instructed us to begin that, we could go
5 forward with that immediately and
6 potentially get that in front of you at
7 the August 22nd? Is that a date?
8 There's an August meeting. That would
9 probably be addressed -- I'm looking at
10 Russell or Mac on that. We could
11 potentially get it in front of you at the
12 August meeting.

13 MR. PHILLIPS: It would be
14 aggressive?

15 MR. GLENN: Yes. If
16 everything falls in place, we can get it
17 in the August meeting. If not, it may
18 push to two months after that, but that
19 would be the time frame it would come
20 before you.

21 MR. PHILLIPS: Anything
22 else?

23 MR. WAINWRIGHT: This is

1 limited to acrolein and phenol?
 2 MR. PHILLIPS: Yes.
 3 MR. GLENN: Yes, sir. Well,
 4 I mean, I -- I want to be very cautious
 5 there. I'm not sure what EPA will do
 6 regarding the updating of their criteria
 7 document. Through that document, they
 8 make recommendations to the whole country
 9 of the values we should use. So there
 10 may be other issue at play when they're
 11 revising that document besides just
 12 acrolein and phenol, but that's all I've
 13 been speaking to today.
 14 MR. WAINWRIGHT: If we go
 15 ahead today on this, we'd be limited to
 16 acrolein and phenol?
 17 MR. GLENN: That would be
 18 completely up to y'all. Yes, that's
 19 what's been discussed.
 20 MR. PHILLIPS: Any other
 21 Comments from the Commission?
 22 DR. FELKER: Yes.
 23 MR. PHILLIPS: Commissioner

1 Felker.
 2 DR. FELKER: I have two.
 3 First, Trey, I wanted to say you did a
 4 great job here; and thank Marilyn and
 5 James, because this change will affect
 6 the entire country, not just the State of
 7 Alabama, and I think that's significant
 8 that you took the lead.
 9 The second question I have
 10 is for Dr. Gardner. I'm trying to
 11 understand. Are you asking, Dr. Gardner,
 12 that we wait until the change has been
 13 made by U.S. EPA, or that you are
 14 suggesting that perhaps we should act on
 15 it sooner?
 16 DR. GARDNER: Quite
 17 honestly, I was waiting to hear Mr.
 18 Glenn's response before I made a decision
 19 on that. My position, as everyone's
 20 aware, has always been we be proactive on
 21 this. And so my request of the
 22 Commission would be, for the third time,
 23 that we be proactive on this.

1 I'm assuming I need to make
 2 that in the form of a motion. But I
 3 would move that we go ahead and change
 4 these numbers to correspond to IRIS and
 5 also to any updates that come in the
 6 National Water Quality Criteria review.
 7 MR. PHILLIPS: So you're
 8 making that in the form of a motion?
 9 DR. GARDNER: I am.
 10 MR. PHILLIPS: So I have a
 11 motion -- to make sure I have this right,
 12 I have a motion to update the acrolein
 13 and phenol values to those that are in
 14 IRIS and any other updates that come from
 15 the National Water Quality review.
 16 DR. GARDNER: Correct.
 17 MR. PHILLIPS: Hang on. I
 18 want to make sure from the Department
 19 that that's going to be an appropriate
 20 motion.
 21 MR. GLENN: I just want to
 22 make sure I understood what the motion
 23 was, because the last part was something

1 that --
 2 DR. GARDNER: I am not --
 3 that's right. We're limiting it. I'm
 4 sorry. We are limiting it to the
 5 acrolein and phenol. I'm making a motion
 6 that we update the values for acrolein
 7 and phenol to reflect the values in
 8 IRIS.
 9 MR. GLENN: If you're asking
 10 for a response from the Department on
 11 that, we will move forward with any
 12 rulemaking that you as a Commission
 13 choose for us to move forward on. That's
 14 our response.
 15 I would like to -- you know,
 16 it is certainly my assumption, based on
 17 the clear writings of EPA that
 18 they -- that the updated criteria
 19 document will include values at least as
 20 stringent as the IRIS document, but I
 21 don't know what other considerations they
 22 may have.
 23 But that's my assumption,

1 and I would that's all of our assumption
2 based on their writings. So that's -- we
3 don't know exactly what the final number
4 will be, but we assume with a strong
5 degree of confidence that's what it will
6 be is the IRIS values, based on their
7 writings.

8 MR. PHILLIPS: So can I
9 restate the motion? The motion is to --

10 DR. GARDNER: I apologize.

11 MR. PHILLIPS: That's okay.
12 The motion is to update the acrolein and
13 phenol values to correspond with those in
14 IRIS.

15 DR. GARDNER: Correct.

16 MR. PHILLIPS: I have a
17 motion. Do I have a second?

18 MR. WAINWRIGHT: I'll second
19 that.

20 MR. PHILLIPS: I have a
21 second.

22 MR. WAINWRIGHT: I want to
23 be sure of one thing. We're talking

1 about --

2 MR. PHILLIPS: Well, let me
3 get to the discussion. So I have a
4 motion and a second for the motion. Now
5 I'll open it up for discussion.
6 Commissioner Wainwright.

7 MR. WAINWRIGHT: Are we
8 talking about the current IRIS level?

9 DR. GARDNER: Correct.

10 MR. WAINWRIGHT: In the
11 event that EPA comes out with a more
12 restrictive value, then we would need to
13 go back and change it again.

14 MR. PHILLIPS: Is that your
15 intent?

16 DR. GARDNER: That
17 would -- I don't think we would have
18 another option. They've indicated that
19 they would be updating to current IRIS
20 values.

21 MR. WAINWRIGHT: Right. But
22 there is a risk that we might have to go
23 back later and --

1 MR. PHILLIPS: Do you want
2 to offer an amendment?

3 MR. WAINWRIGHT: No. I
4 don't see any problem, because it will
5 still be in the process, and we'll just
6 extend the process.

7 MR. PHILLIPS: Any other
8 discussion or comments from the
9 Commission?

10 DR. FELKER: I have just
11 have one --

12 MR. PHILLIPS: Commissioner
13 Felker.

14 DR. FELKER: I have one more
15 question for Mr. Glenn. Are you
16 anticipating they're going to change
17 anything else? Is there any
18 indication that anything else will
19 change?

20 MR. GLENN: Well, let me --
21 I'm not aware of it personally at my
22 level. I don't think Deputy Director
23 Elliott has been aware of any changes.

1 But anytime -- they're constantly looking
2 at that document though. So we don't
3 know that. Is that a proper answer?

4 DR. FELKER: I read the
5 letters, and I felt the same way too.
6 They could, but they didn't indicate that
7 they would.

8 MR. GLENN: Other issues
9 other than acrolein and phenol they may
10 change or address, but we -- I don't have
11 that information.

12 DR. FELKER: Okay. I have a
13 question to Mr. Phillips or Mr.
14 Wainwright. If they do come back with
15 different changes we were not
16 anticipating when we are voting today,
17 you said there will be an opportunity to
18 fix it at that time?

19 MR. PHILLIPS: What I said
20 was that there'd be the opportunity to
21 bring back to the Commission another
22 motion.

23 DR. FELKER: For second

1 rulemaking?

2 MR. PHILLIPS: Well, it
3 won't be in front of us at that point.
4 By the process that we just heard from
5 the Department, if they do it in the
6 summer, they will be there before we're
7 there, and then it will be back in front
8 of us to decide what to do.

9 DR. FELKER: Okay. Okay.

10 MR. PHILLIPS: That's what I
11 meant. Any other comments or questions
12 from the Commission? Commissioner
13 Archie, have you got anything?

14 MS. ARCHIE: That was my
15 question.

16 MR. PHILLIPS: Okay. All
17 right. So I have a motion to update the
18 acrolein and phenol values to the current
19 IRIS values and a second. Any further
20 discussion? All in favor of the motion,
21 signify with the sign "aye" and your
22 right hand.

23 ALL: Aye.

1 MR. PHILLIPS: All opposed,
2 same sign. (No response.) Motion
3 carries.

4 I am going to have to step
5 out for a moment. I just received a
6 phone call, so I'm I'm going to turn the
7 responsibilities to Vice Chair Gardner.

8 DR. GARDNER: Okay. Moving
9 on to Agenda Item No. 8, we need to have
10 a discussion of having meetings at
11 different locations around the state.
12 I'd like to call on Commissioner Felker
13 for comments.

14 DR. FELKER: Thank you.
15 I -- as you recall, we abolished the
16 External Relations Committee in December,
17 and we were to work on various projects.
18 And this is one that I've decided to take
19 a peek at. This was not my idea. I've
20 heard about it since I began on the
21 Commission two-and-a-half years ago from
22 various sources, including our
23 Commissioners, and -- and groups and

1 people, public around the state.

2 So I decided to get some
3 information so that the Commission could
4 take a look at it. I sent out letters to
5 various industry groups, environmental
6 groups, and to the Governor's office; and
7 you've all been provided the letters in
8 your packets. Most of the letters were
9 favorable, including a letter -- a very
10 nice letter from Governor Riley strongly
11 supporting this effort.

12 The industries, for the most
13 part, were favorable, with the exclusion
14 of two, being ALFA and Forestry
15 Association. Balch & Bingham was in
16 favor. Actually, it's Paper and Pulp
17 that was not in favor. Alabama Power was
18 in favor; the Reform Coalition was in
19 favor, and the Coal Association was in
20 favor.

21 And the letters, some of
22 them gave various information; some
23 suggested we have a trial, and that was

1 my intent, to propose a trial of holding
2 two meetings outside of Montgomery and
3 see how it goes. And if people don't
4 show up or if they're a failure or it's
5 too difficult or we run into problems,
6 well, then we'll have to rethink it. But
7 I felt that a trial, based on the
8 responses that I got, would be in order.

9 And I also asked Mr. Glenn
10 to prepare some cost figures, because I
11 knew that some people would want to know
12 how much this was going to cost us and if
13 it would be feasible given the costs and
14 the current budgeting situation. Would
15 you like to talk about that?

16 MR. GLENN: Be happy to.
17 Commissioners, as requested, we did look,
18 and of course, it was a lot of different
19 assumptions you can make in an analysis.
20 But we did look at trying to determine
21 the differential, the incremental cost
22 difference between holding a meeting here
23 in Montgomery versus -- we did

1 Huntsville, Birmingham, and Dothan, just
2 to spread out a few options around the
3 state.
4 And we saw numbers -- I
5 don't have them in front of me -- but a
6 little bit more than -- between three to
7 \$4,000 additional cost, incremental cost,
8 up to, you know, five or \$6,000.
9 DR. FELKER: Is that per
10 meeting, or is that --
11 MR. GLENN: Per meeting.
12 DR. FELKER: Per meeting.
13 MR. GLENN: Yes, ma'am, per
14 meeting.
15 DR. FELKER: So six to
16 \$10,000 per year if we held two meetings
17 outside --
18 MR. GLENN: That is an
19 assumption, making a lot of assumptions
20 on what I think is a pretty good guess.
21 I mainly focused on my staff's time,
22 things such as obviously, if we have the
23 meeting here, more staff would be here

1 than if we traveled somewhere. So we
2 factored into account those issues as
3 well as that travel cost, tried to adjust
4 your travel cost accordingly.
5 The big unknown that
6 you -- that we discussed is if we would
7 have to rent a facility or if we would
8 get one at no charge. And so that
9 would -- but we would be faced with that
10 wherever we go. I would hope we could
11 find facilities for small -- for minimal
12 cost, if any, to have meetings such as
13 this. So --
14 DR. FELKER: Okay. And I do
15 agree with you, but it's very important
16 to have all those people sitting there.
17 We need them. And so that's why I
18 thought that two would be a good idea
19 rather than four. And my also thought
20 was the Commission could just decide when
21 we go to pick the date for the next
22 meeting, we could also pick the place for
23 the next meeting, and knowing what might

1 be on the agenda and how much of your
2 resources we would need.
3 And so are we ready to enter
4 into a discussion?
5 DR. GARDNER: If you're
6 done.
7 DR. FELKER: I am.
8 DR. GARDNER: Are there any
9 comments from the rest of the Commission?
10 MR. WAINWRIGHT: How many
11 staff, ADEM staff, are present today?
12 (Show of hands.) Are we going to take
13 all this staff on meetings?
14 MR. GLENN: No, sir.
15 Depending on the issues here, we will ask
16 a few individuals. You see more
17 individuals in the room today that are
18 just participating, observing the
19 meeting, that maybe didn't spend as much
20 time preparing for the meeting as
21 supporting me in preparing.
22 The numbers I used, I
23 estimated roughly 15 individuals play a

1 much more active role in any meeting
2 here. We would, of course, try and
3 reduce that to 10 individuals if we were
4 to try to travel somewhere. However, if
5 we were to travel to a meeting near our
6 Decatur office, we would take the
7 opportunity for some of our staff in that
8 office, for example, to attend.
9 So you may see more than 10
10 people, but I was focusing on these
11 individuals that I would require to
12 travel based on questions that may arise.
13 And we looked at 10. I think we're up to
14 10 individuals for that, whereas here, I
15 use the luxury of having 15 here to
16 answer questions.
17 MR. WAINWRIGHT: I guess my
18 point is that we wouldn't have the staff
19 available at the meetings that we would
20 normally have?
21 MR. GLENN: I would --
22 depending on the issue, it would
23 certainly be my preference to reduce the

number of staff that would attend the meeting for cost reasons.

DR. GARDNER: I'd like to note that Chairman Phillips has returned, and I'm turning the meeting back over to him.

MR. PHILLIPS: Thank you, Commissioner Gardner. I appreciate that. At what point are we?

DR. GARDNER: We are discussing the possibility of having meetings at different locations around the state.

MR. PHILLIPS: Do we have any additional discussion or comments.

DR. GARDNER: I just wanted to point out that if I'm remembering the numbers correctly, three to \$5,000 is a little lower than the top end that you had shown us.

MR. GLENN: Yes, yes. The minimal cost differential, if I recall correctly, is maybe \$3,500 or \$4,000.

incremental costs, depending if you had the meeting and the different assumptions of mode of transportation and whatnot for having a meeting in Dothan or in Huntsville.

DR. GARDNER: And just to clarify, incremental costs, you're speaking over and above what it would normally cost here?

MR. GLENN: That was -- the intention was to try and capture -- I'm talking about physical direct cost, mileage money, staff time away from the office, that type of thing. Just pure direct cost.

MR. PHILLIPS: Above and beyond what it would normally be?

MR. GLENN: Exactly. Yes, sir.

MR. PHILLIPS: Any other questions or comments from the Commission?

MS. ARCHIE: I have a couple

DR. GARDNER: And the top end was 11, 10 or 11?

MR. GLENN: Yes. I don't think -- maybe not of incremental costs. Probably six, \$7,000 of incremental cost difference between --

MR. PHILLIPS: 10 or 11 total?

MR. GLENN: I believe it went up to as high as about \$11,000 total. But, again, that's not a total cost of holding a meeting. That's just the things I compared to make that incremental analysis. So, yes. So the range would be as small of a differential -- I think Birmingham was the most cost-effective place to have a meeting of the three I looked at, based on the all of the different factors involved.

About \$3,500, \$4,000 additional assumed estimated costs, going as high as six to \$8,000 of additional

of questions.

MR. PHILLIPS: Commissioner Archie.

MS. ARCHIE: Trey, I can't remember those numbers on it, but did it include in there the facility that we would use and how many it would accommodate to possibly attend a meeting?

MR. GLENN: I made an assumption there. We do have to have a specific type of facility to accommodate this type of meeting to conduct business, especially not knowing what type of business may be conducted on any given meeting. So I just did a range.

I mean, for here, we know there's no additional cost, using those words, for holding a meeting here and a facility set up for it. But I assumed -- we might could get something for no cost, depending on maybe working -- I can just envision a few places.

If we had to rent a

1 facility, we assumed it could be as much
2 as \$2,000 for rental to do that. Again,
3 those were just based on discussions with
4 my staff members. We spend a lot of time
5 going out and securing facilities to have
6 meetings at. And these would be a little
7 different facilities possibly than where
8 we have general public hearings. Just
9 because of the type of business you
10 conduct, it would have to be conducive to
11 you and your business. So I assumed zero
12 to \$2,000.

13 MS. ARCHIE: I guess my next
14 question, (inaudible). Where would
15 we -- I mean, so far as the locations,
16 would the Department set the location or
17 would we as the Commission set a
18 location?

19 DR. FELKER: What I was
20 thinking, Anita, was that when we go to
21 set the date, we could say, Where do you
22 want to have the next meeting? If we
23 wanted -- you know, we would certainly

1 want to move them around. We wouldn't
2 want to have the first three meetings in
3 Birmingham. You know, we would want to
4 try different locations.

5 And I was thinking that we
6 would set -- we would decide where the
7 meetings would be. And they don't have
8 to be in the locality of where a
9 Commissioner lives. They could be
10 anywhere in the state. We don't have a
11 Commissioner from Mobile, but we could go
12 to Mobile.

13 You know, that's -- you
14 know, the effort is to see if the public
15 will come and participate and take an
16 interest; that we could present ourselves
17 to them and be available to them.

18 MS. ARCHIE: Okay. One last
19 thing: One thing that
20 really -- that -- that was very true -- I
21 think it was the ADEM Reform Coalition
22 that brought it up, is that if the
23 objective -- and I agree it is the

1 objective -- is to get more exposure for
2 the public to come and attend the
3 meetings, that that is a huge factor
4 talking about -- I agree with them that
5 you want the working people to be there
6 who have concerns.

7 And if you're talking about
8 having a meeting during the day, that's
9 very hard because you've got to take time
10 off of work. And I do agree with them on
11 that point that you have to possibly look
12 at -- if our whole intent is to try to
13 get the public to know what we're doing
14 and give them a chance for input, I do
15 agree along with that.

16 And at the same time, I also
17 agree along with the other comment that
18 was given in the letter regarding, you
19 know, everything's local. I -- it is.
20 Everything is a local issue. And if we
21 go to a particular area, our comment
22 period may be involved -- spend a lot of
23 time dealing with issues that we don't

1 have any control over any say-so in..

2 And I think the public
3 should have the right to voice those
4 concerns, so my main concern would be
5 overnight travel expense for that,
6 because I do believe we need to have
7 those meetings in the evening so you get
8 more participation.

9 And then the structure of
10 basically -- the actual committee meeting
11 itself, because I do think that you have
12 a lot of people that would actually want
13 to attend those meetings. In my -- you
14 know, just for my passion, my concern, I
15 would like to see those meetings held in
16 not really urban cities but into rural
17 neighborhoods where they really don't
18 have the opportunity have that voice.

19 I know it would be a very,
20 you know, big challenge of trying to find
21 a facility that may be accommodating,
22 but, you know, I would love to hear from
23 folks other than, you know, ones in the

1 highly urban areas than areas in rural
2 areas. So those are my comments.

3 DR. FELKER: And those are
4 all excellent, Ms. Archie, and I had
5 those same concerns. I'm glad you
6 brought this up, because the Reform
7 Coalition letter did indicate the evening
8 meetings, and that would create extra
9 burden and cost. And that would have to
10 be an issue, I think, that would have to
11 be worked out, because we have the
12 meetings in the daytime now and people
13 still have come.

14 I know we had a meeting in
15 Huntsville for the Strategic Planning
16 Committee -- and it was just a Strategic
17 Planning Committee meeting -- and I
18 booked a room 10 people at noon, and it
19 was standing room only. We had to
20 actually stop the meeting and move.

21 So people did come, even
22 though they were in the middle of the
23 day. If we had them at lunchtime, that

1 would be one way to handle that.

2 I also agree with you about
3 the local issue factor, and that was
4 mentioned in some of the letters. And I
5 have two things to say about that.
6 Eventually, all of our issues are local
7 issues. We've heard local issues in
8 here. We've heard people get up and talk
9 about what's going on in Birmingham that
10 is a local issue.

11 If it's something that we
12 don't have regulation over, then Mr.
13 Phillips or the chairman at that time can
14 screen that and say, No, this is
15 not -- we're going to keep it, you
16 know -- we're not going to listen to this
17 because we don't -- it's not something we
18 can act on.

19 But our agenda is set. We
20 will follow the agenda, just like we do
21 here, control in the meetings will be
22 kept at this level. We will probably get
23 public comments that you're talking about

1 that will have to be handled in some
2 fashion, but I think it's doable. But
3 I'm not saying all the bugs are worked
4 out, and they won't be.

5 I think Mr. Bowden mentioned
6 in his letter, Well, we're just not going
7 to know until we give it a try. And so I
8 am at least at this point about to make a
9 motion on a risk, because I don't know if
10 I have a second based on the discussion.

11 But based on the information
12 here, I'm making a motion to have a trial
13 run of two meetings held outside of
14 Montgomery, see what happens, and then
15 come back and reevaluate it after we've
16 had those two meetings.

17 MS. ARCHIE: If I may,
18 Chairman. I think you're assuming that
19 based on my comments that I'm saying no
20 to meetings outside of Montgomery.
21 Basically, what I'm saying is bringing
22 those issues up front that we know ahead
23 of time and bringing those out in those

1 letters to everybody here, because I'm
2 fully in support of making sure that the
3 public has input into it, because that's
4 who we need -- we need here.

5 I mean, no offense. We see
6 the same people here in this meeting room
7 here in Montgomery. I love to see, you
8 know, new folks and have -- and they
9 voice their concerns. So I just wanted,
10 you know, to clear that up, that I'm
11 fully in support of it.

12 DR. FELKER: Yes, Ms.
13 Archie. I understood that completely,
14 and I have the same concern. These are
15 bugs that are going to need to be worked
16 out. And I didn't -- in my comments, I
17 didn't mean to imply that you didn't
18 support it, because I did get the feeling
19 that you did, but you raised some very
20 good issues. I just have to say I don't
21 have the answers.

22 MR. PHILLIPS: Okay. Can I
23 ask you to restate your motion?

1 DR. FELKER: Yes. My
2 motion --
3 MR. PHILLIPS: In a concise
4 manner.
5 DR. FELKER: My motion is
6 that we have a trial of two meetings
7 outside of Montgomery, to be
8 chosen -- location to be chosen and dates
9 to be chosen by the Commission; and then
10 after those meetings are held, we put it
11 back on the agenda to reassess the value
12 of this action.
13 MR. PHILLIPS: I have a
14 motion to have a trial of two meetings
15 held outside of Montgomery, details to be
16 worked out and dates to be worked out by
17 this Commission. And then after those
18 meetings, we will reassess and determine
19 if we continue. Is that correct?
20 DR. FELKER: That is
21 correct.
22 MR. PHILLIPS: I need a
23 second.

1 The full Commission will make that
2 choice. I was clear that the details and
3 the date will be worked out by this full
4 Commission. And I will can ask that the
5 Department work with us on the
6 Commission, with me on the Commission, to
7 make sure that if we -- as we do this
8 that we do it as much as we can around
9 some of our committee work so that we're
10 getting the most effective use of any of
11 this.
12 DR. FELKER: Mr. Phillips,
13 could I ask one more thing?
14 MR. PHILLIPS: Sure.
15 DR. FELKER: Okay. And Mr.
16 Glenn, when we do do this, if you could
17 keep track closely of the actual costs
18 and bring that back to us when we come
19 back up on the agenda to see how it
20 compared with the estimates.
21 MR. PHILLIPS: We need to
22 measure the effectiveness and efficiency
23 of this. Okay. Agenda Item No. 9, any

1 MS. ARCHIE: Second.
2 MR. PHILLIPS: I have a
3 second. I have a motion and a second.
4 I'm going to open it up for discussion.
5 Any further discussion from the
6 Commission? (No response.) With no
7 further discussion, I'll call the
8 question: All in favor of the motion,
9 signify with the sign "aye" and your
10 right hand.
11 DR. FELKER: Aye.
12 MS. ARCHIE: Aye.
13 MR. PHILLIPS: All opposed,
14 same sign.
15 MR. WAINWRIGHT: Aye.
16 DR. GARDNER: Aye.
17 MR. PHILLIPS: We have a
18 tie. Therefore, The Chair will make the
19 call. I vote aye, we will try the trial.
20 Motion carries.
21 MR. WAINWRIGHT: Can we have
22 the first one in Dothan?
23 MR. PHILLIPS: We'll see.

1 other business to come before this
2 Commission? (No response.) No other
3 business to come before this Commission.
4 We'll move Agenda Item No.
5 10. I'll note that our proposed date for
6 the next Commission meeting is June 27th,
7 and I need to confirm that all commission
8 members can attend. I cannot. I will be
9 in Singapore. So If we're going -- if
10 I'm going to be here, I need to be
11 some -- I need to have consideration that
12 we move it. I know Dr. Lester's not here
13 and Ken's not here.
14 So I would like to ask if
15 that's a problem to either look at the
16 13th of June, which is usually when Doc
17 Lester can make these.
18 DR. FELKER: That's the
19 Friday before?
20 MR. PHILLIPS: That's two
21 Fridays before. Commissioner Archie.
22 MS. ARCHIE: Have a great
23 time in Singapore. Both dates are a

problem for me.

MR. PHILLIPS: Any other Commissioner? If not, what I'll do is I'll just ask Debi to see if it's possible for us to all meet at another date in June. If that becomes an issue, then you guys have a great time and I'll bring back gifts from Singapore.

DR. FELKER: I can make it either date.

MR. PHILLIPS: Good. Thank you. If you guys would just work with Debi and let her know your schedules, I'd appreciate it.

At this point we'll leave it at June 27th unless you hear differently. We'll try to do that in the next couple of weeks.

Okay. I'll entertain a motion to adjourn.

MS. ARCHIE: So move.

MR. PHILLIPS: I have a motion to adjourn. Do I have a second?

* * * * *

REPORTER'S CERTIFICATE

* * * * *

STATE OF ALABAMA
COUNTY OF MONTGOMERY

I, Jenny Cone, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify that the foregoing is a true and accurate excerpt of the proceedings as taken stenographically by me at the date and time aforementioned.

This 23rd day of April, 2008.

Jenny Cone
Certified Court Reporter (Lic.
#108) and Notary Public
State of Alabama at Large

DR. GARDNER: Second.

MR. PHILLIPS: All in favor, signify with the sign "aye."

ALL: Aye.

MR. PHILLIPS: All opposed, same sign. (No response.) We are adjourned. Thank you for your being here today.

* * * * *

REPORTER'S CERTIFICATE

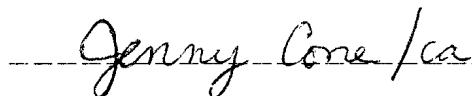
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STATE OF ALABAMA

COUNTY OF MONTGOMERY

I, Jenny Cone, Certified
Court Reporter and Notary Public in and
for the State of Alabama at Large, do
hereby certify that the foregoing is a
true and accurate excerpt of the
proceedings as taken stenographically by
me at the date and time aforementioned.

This 23rd day of April, 2008.

_____

Jenny Cone

Certified Court Reporter (Lic.

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A				
able 13:10 abolished 51:15 Absolutely 14:2 accept 10:20 31:5 34:16 accepted 33:5 accepting 23:5 accommodate 61:8 61:11 accommodating 65:21 accomplish 14:16 accomplished 14:22 account 55:2 accurate 76:11 acknowledge 3:3 acknowledging 35:11,14 acrolein 37:9 38:3 42:1,12,16 44:12 45:5,6 46:12 49:9 50:18 act 10:5 17:12 32:16 37:7 39:16 43:14 67:18 acted 8:21 40:5 action 12:19 38:9 38:10 70:12 actions 38:11 active 57:1 actively 15:4 activities 5:19 actual 65:10 72:17 add 20:12,14,17,19 32:13 added 21:13 addition 21:16 26:1 additional 4:11 25:12 31:4 54:7 58:15 59:22,23 61:17 address 49:10	addressed 24:11 33:20 41:9 ADEM 2:13,14 6:13 16:19 20:1,3 32:7 56:11 63:21 adjourn 74:20,23 adjourned 75:7 adjust 55:3 administrative 4:8 5:5 20:3 32:7 adopt 22:12,14,21 26:10 34:11 36:18 adoption 19:10 23:13 26:15 31:5 31:18 32:21 advantage 15:8,13 affect 25:9 43:5 aforementioned 76:13 agencies 7:15 Agency 7:2 Agency's 19:21 agenda 3:5,22 15:21 18:3 19:9 23:12 31:16 37:2 37:14 51:9 56:1 67:19,20 70:11 72:19,23 73:4 aggressive 41:14 ago 51:21 agree 55:15 63:23 64:4,10,15,17 67:2 ahead 29:17 39:19 39:19 42:15 44:3 68:22 Alabama 1:5,8,10 1:12 12:10 14:11 24:3 32:4 43:7 52:17 76:5,9,23 ALFA 52:14 allowed 32:18 allowing 29:1 allows 15:3	amend 22:3 34:9 amendment 35:19 48:2 amendments 19:11 22:22 23:6,14 24:3 26:16 31:6 31:18 32:7 34:17 36:19 amount 11:1 20:16 analysis 53:19 59:14 Anita 2:5 62:20 announce 8:4 annually 17:15 20:1 answer 22:16 26:11 27:11 34:13 49:3 57:16 answers 69:21 anticipate 4:11 38:15 anticipating 48:16 49:16 anybody 30:16 anytime 33:5 49:1 apologize 46:10 appears 29:22 30:7 Appendix 25:8 Applause 10:22 13:15 17:22 applicable 24:17 26:7 appreciate 4:4 5:10 8:23 9:1 15:22 58:8 74:14 appropriate 44:19 approval 39:23 40:21 approximately 39:23 April 1:16 76:14 arbitrary 30:1,6,13 Archie 2:5 3:9 7:9 12:14 16:4,5,20	31:8 34:21 50:13 50:14 60:23 61:3 61:4 62:13 63:18 66:4 68:17 69:13 71:1,12 73:21,22 74:21 area 64:21 areas 5:14,17 66:1 66:1,2 arose 35:10 arsenic 25:18 27:7 27:18,22 28:23 30:19 ashes 13:17 asked 27:8 53:9 asking 18:17 28:16 28:17,20 30:2 38:10 40:17 43:11 45:9 asks 26:9 assign 26:4 assigned 14:18 assistance 6:2 assistant 2:15 17:19 associated 26:5 Association 52:15 52:19 assume 38:17 46:4 assumed 59:22 61:19 62:1,11 assuming 44:1 68:18 assumption 45:16 45:23 46:1 54:19 61:10 assumptions 53:19 54:19 60:2 attainment 17:11 attend 57:8 58:1 61:8 64:2 65:13 73:8 attention 5:15 15:3 38:4	August 41:7,8,12 41:17 authorization 19:22 authorize 35:18 authorizing 35:12 35:15 available 7:11 57:19 63:17 avoid 28:4 award 16:1 17:5,13 17:20 aware 7:21 43:20 48:21,23 aye 3:17,18 23:6,7 31:7,8,9,10,13 36:20,21 50:21,23 71:9,11,12,15,16 71:19 75:3,4 a.m 1:16
				B
				back 18:21 30:22 39:17,22 47:13,23 49:14,21 50:7 58:5 68:15 70:11 72:18,19 74:8 Balch 52:15 Barron 11:22 based 7:18 9:13 45:16 46:2,6 53:7 57:12 59:18 62:3 68:10,11,19 basically 65:10 68:21 basis 29:2 Beasley 11:18 Bedford 11:23 began 21:5 51:20 begun 14:13 15:10 believe 27:19,23 30:13,13 38:7 59:9 65:6 better 20:12 beyond 35:22 40:22

60:17 big 55:5 65:20 bill 8:1,7,14,22 10:7,13,16 11:9 12:17,23 13:6,10 13:11 bills 8:5 Bingham 52:15 bingo 13:10 Birmingham 17:10 54:1 59:16 63:3 67:9 bit 54:6 Board 17:10 boiled 39:5 booked 66:18 Boothe 11:18 Boulevard 1:11 boundary 18:9 Bowden 68:5 branch 8:18 23:21 32:2 bring 18:5,21 30:20 49:21 72:18 74:8 bringing 68:21,23 brought 39:17,22 63:22 66:6 budget 4:19 5:2 6:23 7:8,11 budgeting 53:14 budgets 6:23 bugs 68:3 69:15 Building 1:9 bumped 13:11 burden 66:9 business 61:12,14 62:9,11 73:1,3	cancer 25:14 candid 8:8 capture 60:11 carcinogens 25:17 carries 3:21 23:10 31:15 37:1 51:3 71:20 case 19:5 28:3 cautious 42:4 certain 20:13 25:3 40:11 certainly 45:16 57:23 62:23 CERTIFICATE 76:2 Certified 76:7,21 certify 76:10 Chair 2:2 6:8 12:15 18:4 19:6 51:7 71:18 chairman 4:3 6:8 17:7 19:15 23:19 27:3 31:23 35:3 37:20 58:4 67:13 68:18 challenge 65:20 chance 14:7 64:14 change 24:18 25:7 25:9,13,14 27:7 27:19 28:7 40:19 40:23 43:5,12 44:3 47:13 48:16 48:19 49:10 changes 15:16 21:4 21:23 24:16 25:21 26:4,10 30:19 34:12 48:23 49:15 Chapter 24:15 25:22 Chapters 24:5 charge 55:8 Chief 19:17 23:21 32:2 choice 72:2	choose 45:13 chose 40:20 chosen 70:8,8,9 Churchill 10:21 cigar 10:11 cities 65:16 clarification 21:13 34:4 clarify 20:13,23 26:2 27:6 32:16 35:20 36:13 60:7 clarity 34:9 classification 23:15 25:23 26:7 classifications 26:4 Clean 37:7 clear 7:10 45:17 69:10 72:2 closely 72:17 Coal 52:19 Coalition 52:18 63:21 66:7 Code 20:4 Coliseum 1:11 combine 35:9 come 3:23 10:20 12:11 17:7 25:4 40:22 41:19 44:5 44:14 49:14 63:15 64:2 66:13,21 68:15 72:18 73:1 73:3 comes 47:11 coming 6:10 7:13 comment 21:10,15 24:6,11 33:6,9 34:3,13 64:17,21 commenters 22:1 comments 21:7,9 21:12,20 22:1 24:2,8,10 29:20 30:10 31:2,4 33:3 33:5,11,16,18 35:1 36:15 37:15	37:16 42:21 48:8 50:11 51:13 56:9 58:15 60:21 66:2 67:23 68:19 69:16 commission 1:5 2:1 2:8 3:3,8 4:14 6:5 6:6 8:11 9:19 13:21,22 16:3 18:4,13,22 19:16 22:14,19,21 23:20 26:15 27:16 29:20 30:10 31:3,17,23 34:11 36:16 37:5 37:12 39:7 40:12 42:21 43:22 45:12 48:9 49:21 50:12 51:21 52:3 55:20 56:9 60:22 62:17 70:9,17 71:6 72:1 72:4,6,6 73:2,3,6 73:7 Commissioner 7:9 26:20 27:1 28:12 28:13 35:4 39:13 42:23 47:6 48:12 50:12 51:12 58:8 61:2 63:9,11 73:21 74:3 Commissioners 4:4 9:22 17:3,8 28:13 29:18 51:23 53:17 Commission's 8:3 18:14 committee 6:9 18:19 22:10 30:15 51:16 65:10 66:16 66:17 72:9 communications 6:4,6 18:10 compared 59:13 72:20 completely 42:18 69:13 compliance 6:1	32:11,18,20 34:5 35:12,15,18 36:8 concern 28:3 65:4 65:14 69:14 concerning 21:14 21:16 24:2 28:5 37:6 concerns 64:6 65:4 66:5 69:9 concise 70:3 concludes 15:19 17:23 concurred 22:11 concur 34:6 conditions 18:9 32:10,17 conductive 40:13 62:10 conduct 61:12 62:10 conducted 61:14 Cone 76:7,20 confidence 46:5 confirm 73:7 congratulations 11:10 consider 31:17 32:6 37:13 38:11 consideration 3:6 19:10 20:5 23:13 73:11 considerations 45:21 considered 26:6 consistently 18:16 constantly 49:1 constitutes 36:8 consumption 25:5 contact 36:3,12 continuation 5:18 continue 70:19 continued 5:11 continues 6:20 contracts 4:17
C calculate 24:19 25:15 call 3:1 37:14 51:6 51:12 71:7,19 called 8:1,12 9:9 calls 38:5				

contribution 25:2,7 control 16:19 32:16 65:1 67:21 conversations 39:2 39:4 correct 21:1 41:1 44:16 46:15 47:9 70:19,21 correctly 6:12 40:18 58:18,23 correspond 44:4 46:13 correspondence 37:23 cost 53:10,12,21 54:7,7 55:3,4,12 58:2,22 59:5,12 60:9,12,15 61:17 61:20 66:9 costs 53:13 59:4,22 60:1,7 72:17 cost-effective 59:17 COUNSEL 2:14 country 42:8 43:6 County 13:9 76:6 coupe 13:8 couple 9:5 35:3 60:23 74:17 course 38:13 53:18 57:2 court 7:18 76:8,21 covering 13:19 create 66:8 criteria 23:15 24:17,20 25:10,16 37:8 38:3,16 42:6 44:6 45:18 current 5:1 8:2 47:8,19 50:18 53:14 currently 7:4 38:19 Curt 9:7 cuts 7:1,14	daily 32:14,23 data 33:3 date 10:12,13 14:17 41:7 55:21 62:21 72:3 73:5 74:6,10 76:13 dates 40:11 70:8,16 73:23 Davis 9:6,7 day 9:11,12 12:21 64:8 66:23 76:14 days 9:10 40:12 daytime 66:12 deal 16:8 dealing 16:10 64:23 Dean 31:22 32:1 35:16 Debi 2:15 74:4,13 Decatur 57:6 December 21:5 40:6 51:16 decide 39:18 50:8 55:20 63:6 decided 51:18 52:2 decision 15:7 30:1 38:12,13,21 40:7 41:3 43:18 decisions 7:18 definitions 20:11 32:8,13 degree 26:5 46:5 department 1:8 4:10 9:23 10:3 12:9 13:5 15:12 19:13,18 20:10,20 21:21 22:2,13 23:17,23 24:7 26:9 31:21 32:4 33:10,20 34:2,6,8 34:10 35:11 36:2 37:14,16 39:9,20 44:18 45:10 50:5 62:16 72:5 Department's 7:23	21:22 22:11 26:2 depending 40:3 56:15 57:22 60:1 61:21 Depends 40:1 41:2 deputy 39:1 48:22 detail 14:6 details 70:15 72:2 determine 53:20 70:18 development 6:1 difference 53:22 59:6 different 29:1 49:15 51:11 53:18 58:12 59:19 60:2 62:7 63:4 differential 53:21 58:22 59:16 differently 74:16 difficult 7:7 53:5 direct 8:8 60:12,15 directed 27:16 directly 14:12 director 2:13 3:23 6:14 9:21 11:7 18:7,17 39:1 48:22 discharge 14:10 31:20 discuss 37:12 39:8 discussed 5:13 14:6 37:21 42:19 55:6 discussing 4:22 58:11 discussion 3:15,15 23:3,4 26:23 27:1 28:21 34:23 47:3 47:5 48:8 50:20 51:10 56:4 58:15 68:10 71:4,5,7 discussions 7:5 18:7 35:1 62:3 distribution 6:11	15:23 Division 19:11,17 20:3 23:14,22 31:19 32:3 36:19 divisions 14:12 doable 68:2 Doc 73:16 document 20:15 38:3,16,17 42:7,7 42:11 45:19,20 49:2 documentation 36:6 38:5,19 documents 24:14 33:23 35:8 doggedly 10:1 doing 18:16 35:14 64:13 doses 37:17 Dothan 54:1 60:4 71:22 Dr 2:3,6,10 3:12 6:9 11:7 22:23 26:17 28:14,19 30:12,23 31:9,10 35:2,6 36:1 39:11 39:15 40:16 42:22 43:2,10,11,16 44:9,16 45:2 46:10,15 47:9,16 48:10,14 49:4,12 49:23 50:9 51:8 51:14 54:9,12,15 55:14 56:5,7,8 58:3,10,16 59:1 60:6 62:19 66:3 69:12 70:1,5,20 71:11,16 72:12,15 73:12,18 74:9 75:1 draft 5:22 Drinking 17:12 due 7:15 duties 14:19	E earlier 24:14 33:23 effective 5:1 72:10 effectively 14:15 38:14 effectiveness 72:22 efficiency 72:22 efficiently 14:15 effort 13:4 52:11 63:14 efforts 8:15,16 14:5 either 38:10 73:15 74:10 Elimination 31:20 Elliott 39:1 48:23 EMC 2:15 employee 9:23 10:11 ended 21:10 Enforcement 6:3 engagement 5:11 enhancing 15:4 ensure 19:18 enter 56:3 entered 4:18 entertain 3:7 26:14 74:19 entire 43:6 environmental 1:5 1:8 3:2 6:2 8:10 19:20 32:5 52:5 envision 61:22 EPA 17:12 19:22 20:7 28:22 29:8 30:14 34:3,6 36:4 37:18,22 38:8 42:5 43:13 45:17 47:11 EPA's 37:6 equations 24:19,23 25:15 equivalency 20:1 equivalent 19:20 errors 21:2
---	--	---	---	---

D

<p>especially 61:13 ESQUIRE 2:9 established 32:15 establishment 32:9 32:22 estimated 56:23 59:22 estimates 72:20 evaluation 5:8,9,16 6:13 evening 65:7 66:7 event 32:21 47:11 Eventually 67:6 everybody 12:22 69:1 everyone's 43:19 everything's 64:19 exactly 46:3 60:18 example 57:8 excel 17:16 Excellence 17:13 excellent 66:4 exception 20:21 25:18 excerpt 76:11 excited 6:15,16 exclusion 29:3 52:13 execute 15:16 execution 5:22 executive 2:15 8:18 exempted 27:18 exempting 22:5 exemption 27:6 existing 5:18 20:14 20:23 exists 15:14 expansion 5:19 8:16 expenditures 4:20 5:3 expense 65:5 expertise 15:14 exposure 25:3 64:1</p>	<p>extend 35:21 48:6 extended 33:7 external 8:16 51:16 extra 66:8 extremely 9:16</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fabulous 13:3 faced 55:9 facilities 22:6 55:11 62:5,7 facility 17:17 55:7 61:6,11,19 62:1 65:21 facility's 21:19 22:5 factor 25:2 64:3 67:3 factored 55:2 factors 25:8 59:19 facts 39:5 failure 53:4 fairly 14:6 fall 16:18 40:4 falling 40:11 falls 41:16 far 62:15 fashion 68:2 fastest 40:15 favor 3:16 23:5 31:4 36:18 50:20 52:16,17,18,19,20 71:8 75:2 favorable 52:9,13 feasible 53:13 February 21:7,11 Federal 32:15 feel 5:1 28:3 feeling 30:4 69:18 feet 21:18 22:4 Felker 2:6 11:7 26:17 28:13,14,19 30:12,23 31:9 42:22 43:1,2 48:10,13,14 49:4 49:12,23 50:9</p>	<p>51:12,14 54:9,12 54:15 55:14 56:7 62:19 66:3 69:12 70:1,5,20 71:11 72:12,15 73:18 74:9 felt 29:6,6 49:5 53:7 figured 11:5 figures 53:10 final 39:23 40:21 46:3 finalize 6:10 find 55:11 65:20 firecracker 10:19 first 6:13,22 10:12 43:3 63:2 71:22 fiscal 4:20 fish 25:5 26:8 five 9:9 25:19 33:10 54:8 fix 49:18 fluorescent 21:14 focus 5:14,16 15:9 focused 7:4 16:13 16:16 54:21 focusing 57:10 folks 65:23 69:8 follow 67:20 following 20:11 foregoing 76:10 foresight 8:9 Forestry 52:14 form 44:2,8 formal 6:13 formatting 21:2 forth 30:22 fortune 40:11 forward 18:6 30:20 41:5 45:11,13 four 21:9 40:2,3 55:19 fourth 21:15 frame 39:21 41:2</p>	<p>41:19 frames 40:4 Frank 12:15,17 Freida 9:6 French 11:23 Friday 73:19 Fridays 73:21 front 41:6,11 50:3 50:7 54:5 68:22 fulfill 14:19 full 13:22 15:8 72:1 72:3 fully 69:2,11 fund 6:22 7:8 further 23:3,4 29:8 50:19 71:5,7 future 6:16</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 2:3 Gardner 2:3 3:12 22:23 31:10 35:2 35:5,6 36:1 39:11 39:14,15 40:16 43:10,11,16 44:9 44:16 45:2 46:10 46:15 47:9,16 51:7,8 56:5,8 58:3 58:8,10,16 59:1 60:6 71:16 75:1 general 5:21 6:22 7:8 62:8 generated 20:16 generators 20:15 20:18,20 Gerald 19:14,16 getting 72:10 gifts 74:8 give 3:23 64:14 68:7 given 27:11 53:13 61:14 64:18 glad 22:15 66:5 Glenda 31:22 32:1 35:16</p>	<p>Glenn 2:13 4:2 11:5 12:12 13:14 13:18 14:2 16:12 16:22 17:6,23 37:19 39:11 40:1 41:1,15 42:3,17 44:21 45:9 48:15 48:20 49:8 53:9 53:16 54:11,13,18 56:14 57:21 58:21 59:3,9 60:10,18 61:9 72:16 Glenn's 43:18 go 10:19 29:7,17 39:19 41:4 42:14 44:3 47:13,22 55:10,21 62:20 63:11 64:21 goals 5:23 goes 15:6 53:3 going 7:13 11:16 16:7 18:18 38:1 38:21 39:7 44:19 48:16 51:4,6 53:12 56:12 59:22 62:5 67:9,15,16 68:6 69:15 71:4 73:9,10 good 4:2,3 5:3 7:20 11:10 12:9 14:6 17:1 19:14 23:18 31:23 40:11 54:20 55:18 69:20 74:11 governor 8:6 9:1 52:10 Governor's 52:6 great 11:14 43:4 73:22 74:7 Griffith 11:23 Group 15:13 groups 51:23 52:5 52:6 guess 35:13 54:20 57:17 62:13</p>
---	--	---	---	---

Guin 11:18 guys 74:7,12	helpful 11:21 HGRs 16:10 high 59:10,23 highly 66:1 hired 13:2 holding 53:1,22 59:12 61:18 holds 6:16 Holley 12:1 honestly 43:17 hope 55:10 hopefully 18:20 House 7:1,12 9:2 11:17,22 16:8 houses 8:5 Hubbard 11:19 huge 64:3 human 24:19 25:10 25:15 Huntsville 54:1 60:5 66:15	indicated 47:18 indication 48:18 individual 24:9 individually 5:13 14:8 individuals 9:6 33:12,14 39:2 56:16,17,23 57:3 57:11,14 indulge 9:15 indulgence 9:22 15:23 industries 29:7 52:12 industry 52:5 information 7:11 7:13 29:15 30:20 37:10,18 49:11 52:3,22 68:11 initiated 32:5 initiating 4:13 input 64:14 69:3 instructed 6:7 41:4 instruction 30:14 Integrated 37:10 intended 35:19 intent 35:17 47:15 53:1 64:12 intention 60:11 interest 10:17 63:16 interested 33:3 internal 6:3 internally 9:14 15:10 introduced 10:9,14 involve 25:22 involved 10:4 16:9 59:20 64:22 involvement 9:2 involves 25:13 IRIS 38:5,19 44:4 44:14 45:8,20 46:6,14 47:8,19	50:19 issue 4:18 5:6 7:22 16:9,23 18:5 19:4 28:8 37:17 39:8 42:10 57:22 64:20 66:10 67:3,10 74:6 issues 4:8 6:19 7:16 9:11 16:11,17 18:8 49:8 55:2 56:15 64:23 67:6 67:7,7 68:22 69:20 issue's 37:21 item 3:5,22 14:3 15:21 18:3,23 19:9 23:12 31:16 37:3,3,14 51:9 72:23 73:4 items 5:17,21 6:21 15:1	keep 67:15 72:17 KELLEY 10:23 Kelly 10:20 11:13 KENNETH 2:9 Ken's 73:13 kept 67:22 key 39:5 kind 16:6 knew 53:11 Knight 11:19 know 6:11,19 12:6 14:9 19:1 31:17 38:23 45:15,21 46:3 49:3 53:11 54:8 61:16 62:23 63:3,13,14 64:13 64:19 65:14,19,20 65:22,23 66:14 67:16 68:7,9,22 69:8,10 73:12 74:13 knowing 55:23 61:13 known 9:13 knows 30:16
H H 2:4,10 Hagood 9:17,20 11:1,11 HAIRSTON 2:9 Hall 11:19 Hammett 11:18 hand 19:5 31:7 36:20 50:22 71:10 handle 67:1 handled 68:1 hands 12:8 56:12 hand-rolled 10:21 Hang 44:17 happened 27:10 happening 38:14 happens 68:14 happy 26:11 34:13 53:16 hard 9:8 12:17 64:9 Hardy 19:14,16 hazardous 19:11 19:19 20:6,16 21:4 head 7:9 health 22:10 24:19 25:10,15 hear 19:12 23:16 29:1 31:21 43:17 65:22 74:16 heard 7:7 29:14 50:4 51:20 67:7,8 hearing 1:10 21:6,8 24:1,8,13 27:3,19 33:11,13,22 35:7 36:5 hearings 33:2 62:8 held 3:7 21:6 23:23 29:11 33:2 54:16 65:15 68:13 70:10 70:15 help 11:14	I idea 51:19 55:18 identified 5:14 III 2:13 immediately 41:5 impact 15:17 imply 69:17 important 9:17 16:23 55:15 inaudible 62:14 include 5:17 24:18 25:1 26:1 38:18 45:19 61:6 included 5:22 24:12 25:8 33:21 includes 7:1 including 5:17 51:22 52:9 incorporate 20:5 incremental 53:21 54:7 59:4,5,14 60:1,7 indicate 49:6 66:7	input 64:14 69:3 instructed 6:7 41:4 instruction 30:14 Integrated 37:10 intended 35:19 intent 35:17 47:15 53:1 64:12 intention 60:11 interest 10:17 63:16 interested 33:3 internal 6:3 internally 9:14 15:10 introduced 10:9,14 involve 25:22 involved 10:4 16:9 59:20 64:22 involvement 9:2 involves 25:13 IRIS 38:5,19 44:4 44:14 45:8,20 46:6,14 47:8,19	J J 2:6 James 39:3 43:5 January 33:7 Jarred 17:19 Jenny 76:7,20 job 9:12 13:1,3 43:4 Joel 17:19 John 2:10 11:11 12:18 join 17:7 July 20:7 Jumping 4:7 June 20:8 39:17 73:6,16 74:6,16 jurisdiction 16:18 justice 6:2 justification 27:8 27:23 30:3	L L 2:5 laid 8:20 lamps 21:15,15 Land 19:17 language 20:13 26:2 34:7 Large 76:9,23 lastly 6:5 latest 37:9 LAUREL 2:3 law 8:6 layers 15:11 lead 43:8 leadership 5:23 8:23 leading 8:15 leave 19:2 74:15 left 14:22
			K KATHLEEN 2:6	

LEGAL 2:14	73:15	mean 12:19,20 42:4	minutes 3:6	38:2 44:6,15
legislation 10:2	looked 57:13 59:18	61:16 62:15 69:5	misinterpreted	near 57:5
legislative 6:18,19	looking 8:17 41:9	69:17	34:8	need 19:1 44:1
7:22 8:18	49:1	means 15:5	mission 14:16	47:12 51:9 55:17
Lester 2:10 6:9	lot 39:3 53:18	meant 50:11	Mitchell 12:1	56:2 65:6 69:4,4
73:17	54:19 62:4 64:22	measure 72:22	Mobile 63:11,12	69:15 70:22 72:21
Lester's 73:12	65:12	meet 5:6 74:5	mode 60:3	73:7,10,11
letter 37:5,13 40:17	love 65:22 69:7	meeting 1:6 3:2,6	modified 25:1	needs 9:18
52:9,10 64:18	lower 58:19	4:14 14:7 15:11	moment 9:5 51:5	neighborhoods
66:7 68:6	Ludder 27:5 30:2	19:2 37:4,5 40:6	money 60:13	65:17
letters 49:5 52:4,7	Ludder's 28:3	40:13 41:8,12,17	Montgomery 1:12	never 9:12
52:8,21 67:4 69:1	lunchtime 66:23	53:22 54:10,11,12	53:2,23 68:14,20	new 14:19 15:8,9
level 6:6 25:14 47:8	luxury 57:15	54:14,23 55:22,23	69:7 70:7,15 76:6	32:13,21 69:8
48:22 67:22	Lynn 23:18,20	56:19,20 57:1,5	month 18:22 20:17	news 7:20
levels 7:3 29:1	27:13	58:2,5 59:12,18	months 18:20 40:2	nice 10:21 52:10
Lic 76:21		60:2,4 61:8,12,15	40:3 41:18	nine 36:10
limitations 32:9	M	61:18 62:22 64:8	morning 3:4 4:3,3	nodding 7:9
limited 42:1,15	Mac 41:10	65:10 66:14,17,20	19:15 23:19 32:1	non-carcinogenic
limiting 45:3,4	Macon 13:9	69:6 73:6	motion 3:8,11,14	24:21 25:11
Lindsey 11:23	main 1:10 6:21	meetings 51:10	3:16,20 22:20	Non-verbal 26:20
line 21:19 22:5	65:4	53:2 54:16 55:12	23:2,9 26:14,19	noon 66:18
list 6:10 11:15 14:1	maintain 19:23	56:13 57:19 58:12	28:9 30:8 31:5,14	normally 57:20
21:17	20:18	62:6 63:2,7 64:3	34:16 36:18,23	60:9,17
listed 24:21 25:17	maintenance 17:17	65:7,13,15 66:8	44:2,8,11,12,20	Notary 76:8,22
listen 67:16	major 13:8,12	66:12 67:21 68:13	44:22 45:5 46:9,9	note 7:20 23:16
litigation 28:5	making 15:7 38:12	68:16,20 70:6,10	46:12,17 47:4,4	58:4 73:5
29:13,14 30:5,17	40:19 44:8 45:5	70:14,18	49:22 50:17,20	noted 34:1
little 9:7 54:6 58:19	54:19 68:12 69:2	member 30:14	51:2 68:9,12	notice 21:3
62:6	manage 14:10	members 2:1,8 7:6	69:23 70:2,5,14	notify 20:20
lives 63:9	management 1:5,8	13:3 19:15 23:19	71:3,8,20 74:20	noting 37:23
load 32:23	3:2 8:2,10 15:11	31:23 62:4 73:8	74:23	NPDES 32:2
loads 32:14	32:5	memo 4:9,16	move 3:9 15:20	number 46:3 58:1
local 64:19,20 67:3	managers 14:18	mentioned 67:4	22:23 26:17 34:18	numbers 39:20
67:6,7,10	manner 30:6 70:4	68:5	36:17 39:19 44:3	44:4 54:4 56:22
locality 63:8	March 3:7 22:7,9	middle 14:14 66:22	45:11,13 63:1	58:18 61:5
location 62:16,18	24:1,8 33:1,7,11	mileage 60:13	66:20 73:4,12	
70:8	33:13 37:4	million 7:17	74:21	O
locations 51:11	Marilyn 39:1 43:4	minimal 55:11	Moving 3:22 18:3	objective 63:23
58:12 62:15 63:4	markers 14:22	58:22	23:11 31:16 37:2	64:1
lockdown 13:9	Marsh 12:1	minimization 20:19	51:8	observing 56:18
logistical 14:21	matter 28:5	minor 20:22		obviously 54:22
long 11:15	maximum 32:14,23	minus 25:19,20	N	occurring 4:12
look 18:14 52:4	ma'am 11:6 54:13	40:8	name 11:16 23:20	offense 69:5
53:17,20 64:11	McDaniel 12:16	minute 9:9	32:1	offer 48:2
	McIndoe 39:3		National 31:19	offered 17:15 27:9

office 36:3 52:6 57:6,8 60:14 officially 40:19 Oh 16:12 okay 17:3 22:19 28:19 30:9,21 34:22 36:13,17 37:2 46:11 49:12 50:9,9,16 51:8 55:14 63:18 69:22 72:15,23 74:19 once 4:4,19 5:8 10:6 ones 65:23 ongoing 15:2 ONIS 2:13 open 26:23 34:23 39:7 47:5 71:4 opens 30:3,4 operation 17:16 22:6 opinion 8:11 opportunities 6:15 opportunity 4:5 5:6 49:17,20 57:7 65:18 opposed 3:19 23:8 31:11 36:22 51:1 71:13 75:5 option 47:18 options 54:2 oral 21:7 24:9 33:12,14 order 3:3 19:21 28:4 53:8 organization 14:20 15:9 originally 39:17 outlining 4:16 outside 16:18 53:2 54:17 68:13,20 70:7,15 overhaul 10:4 overnight 65:5	P packets 52:8 Page 11:19 27:4 pages 27:5 Paper 52:16 part 20:21 25:6 28:6 44:23 52:13 participate 63:15 participating 56:18 participation 65:8 particular 28:6 64:21 pass 10:7 36:2 passage 8:13,22 passed 6:23 7:12 8:5 10:6,7,11,14 10:15 11:3 13:6 13:11 passing 11:21 passion 65:14 paying 38:4 peek 51:19 Penn 12:1 people 11:8 13:23 52:1 53:3,11 55:16 57:10 64:5 65:12 66:12,18,21 67:8 69:6 performance 5:10 18:8,15 period 5:16 21:10 24:6,11 33:6,9 64:22 permit 32:2,10,20 person 9:23 personal 6:1 19:3 personally 48:21 Personnel 6:9 persons 33:4 pertaining 32:8 petition 39:16 phenol 37:9 38:3 42:1,12,16 44:13 45:5,7 46:13 49:9	50:18 Phil 9:6 Phillips 2:2 3:1,10 3:13,19 4:3 6:8 13:16,20 16:2 17:1,7 18:2 22:17 23:2,8,19 26:13 26:18,22 28:11 29:19 30:9,21 31:1,11,14 34:15 34:19,22 35:4 36:14,22 37:20 39:6,13 41:13,21 42:2,20,23 44:7 44:10,17 46:8,11 46:16,20 47:2,14 48:1,7,12 49:13 49:19 50:2,10,16 51:1 58:4,7,14 59:7 60:16,20 61:2 67:13 69:22 70:3,13,22 71:2 71:13,17,23 72:12 72:14,21 73:20 74:2,11,22 75:2,5 phone 51:6 physical 14:23 60:12 pick 55:21,22 piece 10:1 place 4:23 41:16 55:22 59:17 placed 5:15 places 61:22 plan 6:7 8:2,3,12 15:15,15 20:19 planned 5:4 planning 6:4 8:9 66:15,17 plans 4:21 play 7:18 42:10 56:23 pleased 8:4 pleases 9:18	pleasure 6:14 12:18 17:18 point 40:4,20 50:3 57:18 58:9,17 64:11 68:8 74:15 policy 6:5 16:16 18:10 40:7 41:3 Pollutant 24:17 31:19 pollutants 24:21 25:4,11 Pollution 32:16 position 21:22 43:19 positive 15:17 possibility 58:11 possible 74:5 possibly 61:8 62:7 64:11 potentially 41:6,11 Power 52:17 preference 57:23 prepare 53:10 prepared 18:21 preparing 56:20,21 present 2:1,8,12 56:11 63:16 presentation 9:17 37:17 presented 17:13 24:9 29:23 33:12 33:14 pretty 54:20 pre-2007 7:3 prior 22:6 38:11 priority 5:23 proactive 43:20,23 probably 11:2 40:14,22 41:9 59:5 67:22 problem 48:4 73:15 74:1 problems 53:5 proceed 27:17	proceeding 5:4 proceedings 76:12 process 6:12 14:14 26:3 32:6 38:20 48:5,6 50:4 processes 15:5 program 15:7 programs 14:9,17 15:15 projected 4:21 projects 51:17 promulgated 20:6 proper 49:3 properly 37:21 property 21:19 22:5 proposal 33:19 propose 18:13 53:1 proposed 19:10 21:4 22:13,21,22 23:5,13 24:2,16 25:6,12,21 26:10 26:16 31:6,18 32:6,12,19 33:4 33:17 34:11,17 36:18 37:6 73:5 proposes 7:2 34:9 34:10 proposing 20:10,22 22:2 26:3 Protection 19:21 protective 13:19 provide 32:19 provided 24:14 33:23 52:7 providing 13:23 prudent 29:6 public 17:15 21:3,6 21:8 22:10 23:23 24:2 33:2,6 52:1 62:8 63:14 64:2 64:13 65:2 67:23 69:3 76:8,22 pulled 7:17 13:8
---	---	---	--	---

<p>Pulp 52:16 pure 60:14 pursuant 32:15 34:12 pursued 10:1 push 41:18 put 28:6,7 30:15 70:10 P.E 2:4</p> <hr/> <p>Q</p> <p>quality 23:14,21 24:3,20 25:16 26:6 32:21 35:23 37:8 38:2 44:6,15 question 17:2 21:23 35:10,13 36:17 39:12 43:9 48:15 49:13 50:15 62:14 71:8 questioned 21:12 questions 15:22 16:3 17:2 19:7 22:16,18,20 26:11 30:11 31:2 34:14 35:1,3 36:15 39:9 50:11 57:12,16 60:21 61:1 quickly 4:7 14:4 16:5 19:2 quite 8:8 43:16 quorum 3:4</p> <hr/> <p>R</p> <p>raised 69:19 range 5:17 59:15 61:15 rationale 29:10 reactive 21:17 22:3 read 49:4 reader 20:12 reading 27:3 ready 56:3 reality 7:10 really 63:20 65:16</p>	<p>65:17 reason 28:10 40:16 reasons 58:2 reassess 70:11,18 reassignment 14:23 recall 51:15 58:22 receive 12:5 17:10 17:20 24:1 33:2 received 4:9,16 21:8,9,16 22:2 24:7,10 33:10 34:3 37:5 51:5 recently-executed 4:17 reception 17:14 recognition 17:11 recognize 9:4,5 11:9,11,18 13:13 25:3 32:14 recognized 11:12 recommendation 22:12 recommendations 42:8 recommended 22:15 37:7 38:2 reconciliation 24:12 33:21 34:2 record 24:13 27:3,4 27:19 33:22 36:5 Recycling 8:1 reduce 57:3,23 reevaluate 68:15 reference 37:17 40:5 references 28:22 referring 29:13 reflect 45:7 reflects 27:20 refocusing 8:14 14:14 Reform 52:18 63:21 66:6 reformat 20:11</p>	<p>regarding 5:8 21:22 27:22 33:4 34:4 36:7 40:7 42:6 64:18 regards 18:15 Region 17:12,15 29:5 30:18 34:3 36:7,12 regular 13:1 regulation 67:12 regulations 19:12 19:19,21 20:2,6 20:13 21:5,14 23:16 31:20 regulatory 16:19 related 24:13 33:18 33:22 relations 8:17,19 51:16 relationship 5:12 relative 25:2,7 relevant 33:16 remain 19:19 remarks 15:20 remember 40:17 61:5 remembering 58:17 rent 55:7 61:23 rental 62:2 reorganization 15:18 reorganization/r... 14:5 replacing 35:8 report 4:1 18:1,4 20:21 Reporter 76:8,21 REPORTER'S 76:2 representatives 11:13,20 17:9 request 27:6,11,12 36:2,13 38:8</p>	<p>43:21 requested 53:17 requesting 34:4 requests 22:14 require 57:11 required 19:18 requirement 20:19 22:3,8 requirements 20:15,17 21:1 requiring 29:8 resolution 16:14 resolutions 16:7 resolved 28:8 resources 8:15 16:13,14 56:2 respect 14:16 response 3:20 17:3 19:8 22:19 23:4,9 26:21 27:14 29:21 31:3 36:16,23 43:18 45:10,14 51:2 71:6 73:2 75:6 responses 21:21 53:8 responsibilities 51:7 rest 56:9 restate 46:9 69:23 restrictive 47:12 result 8:9 22:1 29:14 30:18 resulted 8:22 results 9:13 retain 19:22 rethink 53:6 return 7:2 returned 58:4 revenues 4:21 5:2 review 18:8 44:6,15 reviewed 21:20 reviewing 26:3 revise 20:1</p>	<p>revising 42:11 revision 26:1 revisions 20:2,22 32:12,19 33:4 34:12 re-looking 38:1 Rhaly 17:19 right 15:2 16:8 28:14 31:7 36:14 36:20 39:6 44:11 45:3 47:21 50:17 50:22 65:3 71:10 Riley 52:10 risk 25:14 37:10 47:22 68:9 ROBERT 2:14 Rogers 11:19 role 57:1 room 1:10,10 56:17 66:18,19 69:6 roughly 40:3 56:23 rule 24:16,22 25:9 25:13,18,22 27:7 27:18 28:7 32:7 32:13 34:4,9 35:18 rulemaking 4:12 20:9 27:17 32:6 33:17,18 39:22 45:12 50:1 rules 18:19 20:14 22:12,14,21 24:4 run 12:7 53:5 68:13 rural 65:16 66:1 Russell 10:20 11:12 12:19 41:10</p> <hr/> <p>S</p> <p>Safe 17:12 safety 10:18 SAM 2:4 Sanderford 11:20 saw 12:20 54:4 saying 68:3,19,21 say-so 65:1</p>
---	--	---	--	---

schedule 36:8 scheduled 4:14 schedules 32:10,20 34:5 35:13,15,19 35:21 74:13 scientific 27:8 30:2 SCOTT 2:2 screen 67:14 second 3:11,12,14 9:16 23:1,3 26:19 26:22 34:20,21 43:9 46:17,18,21 47:4 49:23 50:19 68:10 70:23 71:1 71:3,3 74:23 75:1 secret 11:6 Section 37:7 securing 62:5 see 7:8,14 10:12 12:6,18 19:5 27:9 48:4 53:3 56:16 57:9 63:14 65:15 68:14 69:5,7 71:23 72:19 74:4 Senate 7:6 9:3 11:22 Senate's 13:9 senators 7:5 11:14 send 13:21 37:22 sent 21:23 36:6 52:4 serve 20:12 32:19 session 6:20 10:8 set 61:19 62:16,17 62:21 63:6 67:19 SGRs 16:10 shake 12:7 shape 5:3 share 28:2 29:16 Shotts 17:20 show 53:4 56:12 shown 58:20 sign 3:17,20 23:6,9 31:7,12 36:20,23	50:21 51:2 71:9 71:14 75:3,6 signed 8:5 significant 43:7 significantly 29:4 signify 3:16 23:6 31:6 36:19 50:21 71:9 75:3 simply 27:14 Singapore 73:9,23 74:8 Singleton 12:2 sir 27:13 42:3 56:14 60:19 Sisk 23:18,20 27:13 sitting 55:16 situation 53:14 six 25:20 40:3,8 54:15 59:5,23 small 55:11 59:15 smoke 10:15 solid 7:23 8:2 10:2 10:5 sooner 43:15 sorry 11:15 33:17 45:4 sort 29:12 source 25:2,7 sources 25:4 51:22 space 15:1 speak 5:7 28:9 30:7 speaking 42:13 60:8 special 38:4 specific 8:13 14:17 38:9,9 61:11 specifically 8:17 24:4,23 32:18 spend 56:19 62:4 64:22 sponsor 12:16 spread 14:11 54:2 Stacey 9:7 staff 8:21 9:6 13:5	14:18 54:23 56:11 56:11,13 57:7,18 58:1 60:13 62:4 staff's 54:21 stand 4:5 standard 32:22 standards 24:4 32:9 35:23 standing 66:19 start 37:15 starting 10:4,6 state 7:15 12:10 14:11 16:8,11 22:10 24:18 27:20 43:6 51:11 52:1 54:3 58:13 63:10 76:5,9,23 stated 37:20 40:18 statement 24:12 33:21 34:2 35:7 states 27:21 28:23 29:5,9 30:18 stating 4:10 21:21 stenographically 76:12 step 36:7,7 51:4 stop 66:20 strategic 6:4 8:3,12 66:15,16 stringent 27:21 29:4 45:20 strong 8:11 46:4 strongly 52:10 structure 65:9 submitted 27:5 substantial 7:1,14 success 8:7 suggest 29:16 suggested 52:23 suggesting 43:14 summarized 33:19 summer 40:20,23 50:6 support 5:11 12:4	15:6 69:2,11,18 supporting 52:11 56:21 sure 16:21 18:16 28:15 29:12 42:5 44:11,18,22 46:23 69:2 72:7,14 surrounding 27:21 swore 10:15 System 26:1 31:20 37:10 systems 15:4,5 17:16	thanks 12:6,15 13:22 thing 10:18 46:23 60:14 63:19,19 72:13 things 8:13 14:22 18:10,12,19 54:22 59:13 67:5 think 7:21 10:18 12:3 27:14 29:10 30:1,4 36:9 37:20 39:4 40:5 43:7 47:17 48:22 54:20 57:13 59:4,16 63:21 65:2,11 66:10 68:2,5,18 thinking 62:20 63:5 third 43:22 Thomas 2:15 9:7 thought 12:22 28:20 55:18,19 three 6:1 21:12 35:22,23 54:6 58:18 59:18 63:2 tie 71:18 time 4:10 22:13 27:16 28:1 29:7 37:22 39:21 40:4 40:13 41:2,19 43:22 49:18 54:21 56:20 60:13 62:4 64:9,16,23 67:13 68:23 73:23 74:7 76:13 timelines 32:17 times 10:10 25:19 25:20 timetable 40:2 tirelessly 12:17 TMDL 35:20 today 4:6 17:8 19:3 29:18 39:18 40:9 40:21 41:3 42:13
--	---	--	--	--

42:15 49:16 56:11 56:17 75:8 tools 15:5 top 58:19 59:1 total 32:14,22 59:8 59:11,11 touch 16:6 Toxic 24:17 track 4:19 72:17 tracking 6:22 7:23 transfer 21:18 22:4 22:6 transfers 16:17 transition 15:2 transportation 60:3 travel 55:3,4 57:4,5 57:12 65:5 traveled 55:1 tremendous 11:1 Trey 2:13 43:3 61:4 trial 52:23 53:1,7 68:12 70:6,14 71:19 tried 55:3 true 63:20 76:11 try 10:6 57:2,4 60:11 63:4 64:12 68:7 71:19 74:17 trying 43:10 53:20 65:20 turn 15:3 51:6 turning 58:5 turns 13:17 two 5:23 6:21 8:12 14:12 41:18 43:2 52:14 53:2 54:16 55:18 67:5 68:13 68:16 70:6,14 73:20 two-and-a-half 51:21 type 60:14 61:11,12 61:13 62:9	types 15:1 typographical 21:2 <hr/> U <hr/> ultimately 10:7 understand 6:12 43:11 understanding 16:15 understood 44:22 69:13 Universal 21:13 unknown 55:5 upcoming 5:16 18:20 update 6:20 14:3 20:23 39:20 44:12 45:6 46:12 50:17 updated 38:16,18 45:18 updates 44:5,14 updating 37:6 42:6 47:19 urban 65:16 66:1 usage 16:17 26:5 use 23:15 25:23 26:4 36:9 42:9 57:15 61:7 72:10 usual 4:9 usually 73:16 U.S 17:12 19:20 36:4 43:13 <hr/> V <hr/> value 47:12 70:11 values 37:11 38:18 42:9 44:13 45:6,7 45:19 46:6,13 47:20 50:18,19 various 51:17,22 52:5,22 vast 15:14 versus 53:23 Vice 19:6 51:7 VICE-CHAIR 2:3	views 33:3 vision 8:20 voice 65:3,18 69:9 vote 28:18 29:17 71:19 voting 49:16 <hr/> W <hr/> W 2:2 Waggoner 12:1 Wainwright 2:4 23:1 27:1,2 28:2 28:12,15,17 29:20 29:21 31:13 34:18 41:23 42:14 46:18 46:22 47:6,7,10 47:21 48:3 49:14 56:10 57:17 71:15 71:21 wait 43:12 waiting 43:17 want 6:20 10:23 13:12 16:5 39:19 42:4 44:18,21 46:22 48:1 53:11 62:22 63:1,2,3 64:5 65:12 wanted 16:20 43:3 58:16 62:23 69:9 wasn't 29:8 waste 7:23 8:2 10:2 10:5 19:12,19 20:6,16,18 21:4 21:14,17 22:3 wastes 21:17 water 15:7,13 16:10,13,13,16,17 17:10,12 23:14,15 23:21,22 24:3,20 25:5,16 32:3,15 32:21 35:22 37:7 37:8 38:2 44:6,15 waters 14:10 24:18 Water's 16:23 way 29:22 49:5	67:1 week 17:14 40:12 weeks 6:10 74:18 welcome 17:9,18 went 18:6 28:21 59:10 we'll 3:23 19:12 23:16 31:21 36:17 37:15 48:5 53:6 71:23 73:4 74:15 74:17 we're 4:19 7:4 18:16,17 29:3 45:3 46:23 50:6 57:13 64:13 67:15 67:16 68:6 72:9 73:9 we've 4:22 6:21 7:22 15:10 39:3 67:7,8 68:15 whatnot 60:3 wildlife 26:8 wish 27:15 word 35:8 words 61:18 work 9:8 11:2,10 14:23 18:18 51:17 64:10 72:5,9 74:12 worked 9:10 12:17 12:20 28:22 66:11 68:3 69:15 70:16 70:16 72:3 working 61:21 64:5 Works 17:10 wouldn't 57:18 63:1 writings 45:17 46:2 46:7 written 20:18 21:9 24:7 33:5,10 34:7 <hr/> Y <hr/> year 4:20,23 5:2 7:7 10:10,13 11:2	54:16 years 10:3 12:10 35:22,23 51:21 y'all 38:8 40:5 41:2 42:18 y'all's 38:13 <hr/> Z <hr/> zero 62:11 <hr/> \$ <hr/> \$10,000 54:16 \$11,000 59:10 \$2,000 62:2,12 \$3,500 58:23 59:21 \$4,000 54:7 58:23 59:21 \$5,000 58:18 \$6,000 54:8 \$62 7:16 \$7,000 59:5 \$8,000 59:23 <hr/> # <hr/> #108 76:22 <hr/> 0 <hr/> 01 25:23 07 24:16 25:13 39:17 <hr/> 1 <hr/> 1 3:5 8:13 24:22 25:17 10 10:10 57:3,9,13 57:14 59:2,7 66:18 73:5 11 24:5 59:2,2,7 11:00 1:16 129 24:7 13th 73:16 14 19:11 20:3 25:10 1400 1:11 15 56:23 57:15 15th 20:7
--	---	--	---	--

16 24:23 34:5	50 21:18 22:4			
17 25:1	50-foot 22:7			
18 1:16	55 27:4			
19 33:1				
19th 22:9 24:1,8	6			
33:8,13	6 6:4 23:14 31:17			
1989 10:5	31:19 36:19			
1992 10:12	6th 21:7 33:1,11			
2	7			
2 3:22 8:14 35:9	7 6:5 37:3			
20 10:2	7th 21:11			
20th 3:7 37:4	8			
2004 8:12,21	8 51:9			
2005 22:7	9			
2006 20:7	9 36:7 72:23			
2007 20:8 21:6				
2008 1:16 3:7 21:7				
21:11 22:9 24:1,9				
33:1,8,12,14				
76:14				
21st 33:7				
22nd 41:7				
23rd 21:5 76:14				
27th 73:6 74:16				
3				
3 18:3 35:10				
30th 20:8				
304(a) 37:8				
31st 22:7				
335-6-10 24:5,15				
24:16 25:13				
335-6-11 25:22,23				
335-6-6 32:8,13				
34:5				
4				
4 6:3 17:12,15 19:9				
29:5 30:18 34:3				
36:12				
5				
5 6:3 23:12				
5,800 27:5				

Part B

Attachment Index

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| Attachment 1 | Agenda |
| Attachment 2 | Resolution on the adoption of amendments to the Division 14 – Hazardous Waste Regulations

(Agenda Item 4 – Consideration of adoption of proposed amendments to the Division 14 – Hazardous Waste Regulations) |
| Attachment 3 | Resolution on the adoption of amendments to the Division 6 – Water Quality Criteria and Water Use Classifications Regulations

(Agenda Item 5 – Consideration of adoption of proposed amendments to the Division 6 – Water Quality Criteria and Water Use Classifications Regulations) |
| Attachment 4 | Resolution on the adoption of amendments to the Division 6 – National Pollutant Discharge Elimination System (NPDES) Regulations

(Agenda Item 6 – Consideration of adoption of proposed amendments to the Division 6 – National Pollutant Discharge Elimination System [NPDES] Regulations [NPDES-Related Matter]) |
| Attachment 5 | Order on the adoption of a motion to update the acrolein and phenol values to the current IRIS values

(Agenda Item 7 – Discussion of ADEM Admin. Code Chapter 335-6-10, Appendix A [Reference Doses] and consideration of possible future rulemaking to amend said rule [NPDES-Related Matter]) |
| Attachment 6 | Order on the adoption of a motion to have two trial meetings to be held outside of Montgomery, details and dates to be worked out by the Commission, and thereafter the Commission shall reassess and determine if it will continue to have meetings held outside of Montgomery

(Agenda Item 8 – Discussion of having meetings at different locations around the State) |

Attachment 1

Amended 3/27/08

AGENDA*
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING
Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Hearing Room)
1400 Coliseum Boulevard
Montgomery, Alabama
April 18, 2008
11:00 a.m.

<u>ITEM</u>	<u>PAGE</u>
1. Consideration of Minutes of Meeting Held on March 20, 2008**	2
2. Report from the Director	2
3. Report from the Commission Chair	2
4. Consideration of adoption of proposed amendments to the Division 14 – Hazardous Waste Regulations	2
5. Consideration of adoption of proposed amendments to the Division 6 – Water Quality Criteria and Water Use Classifications Regulations (NPDES-Related Matter)	2
6. Consideration of adoption of proposed amendments to the Division 6 – National Pollutant Discharge Elimination System (NPDES) Regulations (NPDES-Related Matter)	3
7. Discussion of ADEM Admin. Code Chapter 335-6-10, Appendix A (Reference Doses) and consideration of possible future rulemaking to amend said rule (NPDES-Related Matter)	3
8. Discussion of having meetings at different locations around the State	3
9. Other business	3
10. Future business session	3

*The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under EMC Information and Calendar of Events.

**The Minutes for this meeting will be available on the ADEM website under EMC Information.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON MARCH 20, 2008
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE DIVISION 14 – HAZARDOUS WASTE REGULATIONS

The Commission will consider proposed amendments to the Division 14 – Hazardous Waste Regulations. The Department proposes to amend ADEM Administrative Code Chapters 335-14-1 to 335-14-8, 335-14-11, and 335-14-17. The Department held a public hearing on the proposed amendments on February 6, 2008.

5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE DIVISION 6 – WATER QUALITY CRITERIA AND WATER USE CLASSIFICATIONS REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider proposed amendments to the Division 6 – Water Quality Criteria and Water Use Classifications Regulations. The purpose of the proposed amendments is to revise water quality criteria and establish standards of quality for surface waters of the state. The Department proposes to amend ADEM Administrative Code rule 335-6-10-.07 by adding a relative source contribution factor to the equations used to calculate human health criteria for non-carcinogenic pollutants, and includes the addition of the relative source contribution factors in Appendix A. Also, in response to a resolution adopted by the Environmental Management Commission, the Alabama Department of Environmental Management proposes to amend rule 335-6-10-.07 by changing the risk level used to calculate human health criteria for all carcinogens except arsenic. In addition, the text describing the factors used in Equations 16 and 17 and Equations 18 and 19 is being formatted to provide clarity.

Also, the Department proposes to amend ADEM Administrative Code rule 335-6-11-.01 to clarify the Department's process for reviewing and making changes to assigned use classifications for any usage which has an associated degree of quality considered to be less than that applicable to the classification of "Fish and Wildlife."

The Department held a public hearing on the proposed amendments on March 19, 2008.

6. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE DIVISION 6 – NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider proposed amendments to the Division 6 – NPDES Regulations. The Department proposes to amend rule 335-6-6-.14(3) to update the federal regulation references and to recognize total maximum daily loads (TMDLs) established pursuant to the Federal Water Pollution Control Act (FWPCA). The Department proposes to amend rule 335-6-6-.16(a) to provide permit schedules of compliance in the event of adoption of a new water quality standard or establishment of a total maximum daily load. Also, the Department proposes to amend rule 335-6-6-.02 to add new definitions. The Department held public hearings on the proposed amendments on March 6 and March 19, 2008.

7. DISCUSSION OF ADEM ADMIN. CODE CHAPTER 335-6-10, APPENDIX A (REFERENCE DOSES) AND CONSIDERATION OF POSSIBLE FUTURE RULEMAKING TO AMEND SAID RULE (NPDES-RELATED MATTER)

This agenda item was tabled at the March 20, 2008, Commission meeting until this meeting. The agenda item as tabled stated: The Commission will discuss which EPA sources to use to set reference dose values for toxic substances in ADEM Admin. Code Chapter 335-6-10, Appendix A, including those for acrolein and phenol, and consider a motion on possible future rulemaking to amend said rule. Subsequent to the tabling of this agenda item, the Commission received a letter concerning EPA's proposed updating of the recommended Clean Water Act (CWA) Section 304(a) water quality criteria for acrolein and phenol with the latest Integrated Risk Information System (IRIS) values. The Commission will discuss and consider said letter under this agenda item and call on the Department for comments.

8. DISCUSSION OF HAVING MEETINGS AT DIFFERENT LOCATIONS AROUND THE STATE

This item was added to the agenda at the request of Commissioner Felker. The Commission will discuss the possibility of having its meetings at different locations around the State.

9. OTHER BUSINESS

10. FUTURE BUSINESS SESSION

Attachment 2

ENVIRONMENTAL MANAGEMENT COMMISSION RESOLUTION

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-14 of the Department's Land Division's Hazardous Waste Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to chapters 335-14-1/Hazardous Waste Management System: General; 335-14-2/Identification and Listing of Hazardous Waste; 335-14-3/Standards Applicable to Generators of Hazardous Waste; 335-14-4/Standards Applicable to Transporters of Hazardous Waste; 335-14-5/Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; 335-14-6/Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; 335-14-7/Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities; 335-14-8/Permit Program; 335-14-11/Standards for Universal Waste Management; and 335-14-17/Standards for the Management of Used Oil administrative code attached hereto, to become effective thirty-five days after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**
ADEM Admin. Code division 335-14 - Hazardous Waste Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 18th day of April 2008.

APPROVED:

Laurel Sanders
Janet H. Hargrett
Barth J. H. H.
W. Scott Phillips

DISAPPROVED:

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 18th day of April 2008.

W. Scott Phillips
W. Scott Phillips, Chair
Environmental Management Commission
Certified this 18th day of April 2008.

ABSTAINED:

Attachment 3

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-6 of the Department's Water Division's Water Quality Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to rules 335-6-10-.07/Toxic Pollutant Criteria Applicable to State Waters, 335-6-10-Table 1/Toxic Pollutant Criteria, 335-6-10-.07/Appendix A, and 335-6-11-.01/The Use Classification System administrative code attached hereto, to become effective thirty-five days after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-6-6 - Water Quality Program
Water Quality Criteria and Water Use Classifications

IN WITNESS WHEREOF, we have affixed our signatures below on this 18th day of April
2008.

APPROVED:

Laurel Sanders
Ruth Lee MD
Mike Kubi

This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 18th day of April 2008.

W. Scott Phillips
W. Scott Phillips, Chair
Environmental Management Commission
Certified this 18th day of April 2008.

DISAPPROVED:

James H. Herring

ABSTAINED:

Attachment 4

ENVIRONMENTAL MANAGEMENT COMMISSION RESOLUTION

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-6 of the Department's Water Division's Water Quality Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.



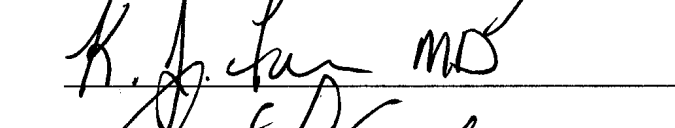

NOW THEREFORE, pursuant to Ala. Code §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to rules 335-6-6-.02/Definitions; 335-6-6-.14/Establishing Limitations, Standards, and Other Permit Conditions; and, 335-6-6-.16/Schedules of Compliance administrative code attached hereto, to become effective thirty-five days after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-6-6 - Water Quality Program
National Pollutant Discharge Elimination System

IN WITNESS WHEREOF, we have affixed our signatures below on this 18th day of April
2008.

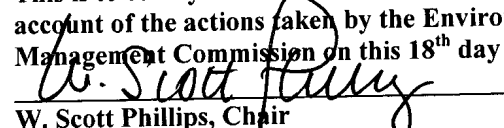
APPROVED:

DISAPPROVED:

ABSTAINED:

This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 18th day of April 2008.


W. Scott Phillips, Chair
Environmental Management Commission
Certified this 18th day of April 2008.

Attachment 5

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Update the acrolein and phenol values to the current IRIS values

ORDER

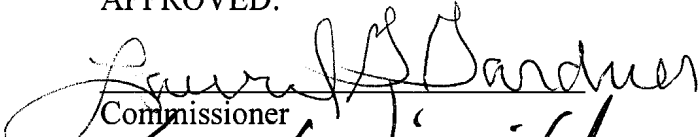
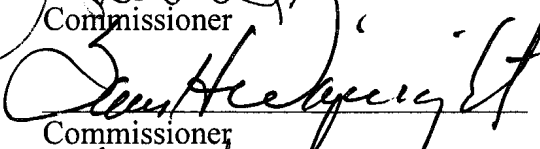
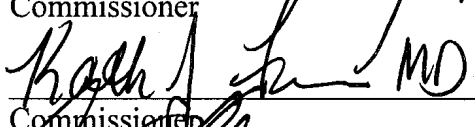
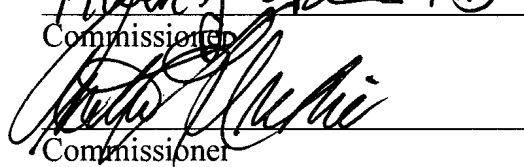
This cause having come before the Environmental Management Commission pursuant to the above motion, and the Commission having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order
Page 2

ISSUED this 18th day of April 2008.

APPROVED:

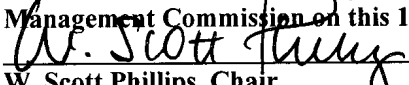

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 18th day of April 2008.



W. Scott Phillips, Chair
Environmental Management Commission
Certified this 18th day of April 2008.

DISAPPROVED:

Commissioner

Commissioner

ABSTAINED:

Commissioner

Commissioner

Commissioner

Commissioner

Attachment 6

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Have two trial meetings to be held outside of Montgomery, details and dates to be worked out by the Commission, and thereafter the Commission shall reassess and determine if it will continue to have meetings held outside of Montgomery

ORDER

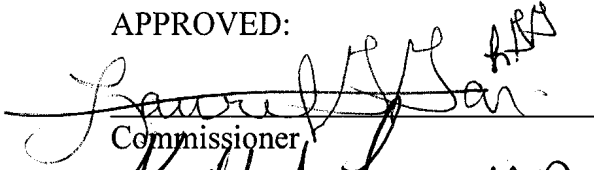
This cause having come before the Environmental Management Commission pursuant to the above motion, and the Commission having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order
Page 2

ISSUED this 18th day of April 2008.

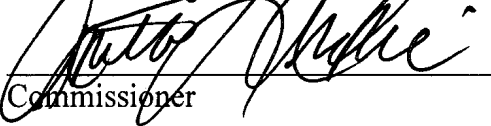
APPROVED:


Commissioner

Commissioner


Commissioner

Commissioner


Commissioner

Commissioner

Commissioner

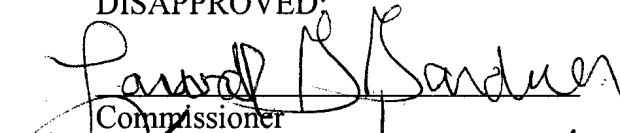

Commissioner

Commissioner

Commissioner

Commissioner

DISAPPROVED:


Commissioner

Commissioner


Commissioner

Commissioner

Commissioner

ABSTAINED:

Commissioner

Commissioner

Commissioner